Mixed Beverage Gross Receipts Tax Audit Manual

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Disclaimer: This manual has been written for the purposes of a training tool and as a reference guide for the auditor. Any references to taxability, administrative policies, laws, and rules are subject to change due to administrative hearings and actions of the courts or legislature. While the content of the manual is current as of the revision date, the reader is responsible for any changes occurring after this date and should verify the current status of any information by contacting the Comptroller of Public Accounts toll free at 1-800-252-5555.

Chapter 1
Overview of Mixed Beverage

A gross receipts tax of fourteen percent (14%) is imposed on the amount received from the sale, preparation or service of mixed beverages and from the sale, preparation or service of ice or nonalcoholic beverages that are sold, prepared or served for the purpose of being mixed with an alcoholic beverage and consumed on the premises of the mixed beverage permittee.

The mixed beverage tax is imposed on the person or organization holding the mixed beverage permit and not the customer. It may not be added to the selling price as a separate charge and may not be "backed out" from the amount received. An amount labeled as a "tax" is fully due to the state, in addition to the mixed beverage tax. Effective June 17, 2011 (House Bill 2033, 82nd Regular Legislative Session) added Tax Code Section 183.0212 allowing a mixed beverage permittee to provide on an invoice, receipt or bill a separate statement of the amount of mixed beverage tax to be paid by the permittee on the customer's purchase of alcohol. The mixed beverage tax disclosure statement is for informational purposes only. It may not be separately charged to, or paid by, the customer and may not be shown as part of the calculation of charges to a customer on the invoice, receipt or bill. This includes any charge labeled a "Tax Reimbursement." Prior to June 17, 2011, any charge labeled as "tax reimbursement" was allowed. See publication 98-934. See chapter 5 for examples.

Per Rule 3.1001(o)(1), the Comptroller presumes that the disposition of all alcoholic beverages purchased by the permittee is taxable until established otherwise. Since most businesses responsible for mixed beverage gross receipts tax are cash intensive, there is the possibility of having problems with misappropriated sales and inventory pilferage. Source records for cash sales may be incomplete, non-compliant, or fraudulent. The Comptroller's office uses the alcoholic beverage depletion analysis (ABDA) as the primary method of determining whether a taxpayer has reported sufficient gross taxable receipts based on the quantity of alcoholic beverages purchased. See chapter 6 for additional information on the ABDA.

Depending on record availability and reliability, the basic procedures of performing a mixed beverage gross receipts audit consist of the following:

1. Verify internal control.
2. Reconcile gross receipts.
3. Conduct a depletion analysis for one or two months as a preliminary review.
4. Conduct a depletion analysis for additional periods in the audit if material adjustments were discovered during the preliminary review.

Chapter 2
Pre-Audit Research

Pre-audit research is an essential step in any mixed beverage gross receipts tax (MBGRT) audit. Preliminary taxpayer data should be obtained from the Comptroller's various online sources, and TABC permit and permittee data should be acquired from the TABC website http://www.tabc.state.tx.us/publicinquiry/. Some of the preliminary audit information that should be considered or reviewed prior to the entrance conference is listed below.

- Review the Auditing Fundamentals manual for audit procedures common to all audits including MBGRT audits.
- Determine the reason the audit was generated. Audits generated due to a taxpayer/permittee security release request must be completed within ninety days of the generation date. Audits generated for most other reasons should be completed in accordance with AP110.
- Order and print a taxpayer history for the audit period.
  - » Review the history for inconsistency, patterns or trends.
    - ° Monthly reported sales
    - ° Percentage of sales between classes of beverage
    - ° Complementary drinks
    - ° Cover charges
  - » Review for zero months. (See chapter 6.)
  - » Match TABC permit effective periods to reporting periods for each outlet.
  - » Correlate TABC suspension periods to reported sales for the same period.
  - » Verify that receipts from temporary permits were reported. These are generally a permit for one day to sell at a festival or other special occasion when the sales are off premises.
- Obtain beer, wine, and distilled spirits purchase information ("HB11") provided on audit division's website and calculate a preliminary COGS%. (See chapter 8 for additional information on COGS%) (Note: Distilled spirits and some wine were not available until September 2011.)
- Obtain ending inventories by accessing mixed beverage ending inventory database on audit division's website. This data is only available for taxpayers who actually notified TABC and Comptroller about ending inventories when the business was sold.
- Review the Comptroller's CICS taxpayer information.
  - » Consider spin-off audits for taxpayer's tax responsibilities other than tax type 73 (MBGRT). (e.g., sales tax, hotel tax, etc.)
  - » Determine beginning and ending obligation dates for each tax type.
  - » Review outlet information. A separate TABC license or permit is required for each outlet selling or serving alcoholic beverages.
  - » Review OCL and ICL status of each outlet with a MBGRT permit. This information will be required on the audit exams.

    - Review CICS MXBOND inquiry to obtain taxpayer security information.
- Review TABC website for permittee and licensee information.
    - Correct TABC permit number (CLP#) issued to this taxpayer. A taxpayer may have more than one permit or license; each outlet must have a separate TABC license or permit.
    - Note the original issuance date of all TABC licenses or permits.
    - Note the status of each TABC permit; if not active note the effective status date.
    - Note auxiliary TABC permits issued to the primary permit and effective dates.
    - Note all TABC administrative and criminal violations and resulting suspension periods or termination dates. The audit plan should address violations impacting the audit including, but not limited to the following:
        - Unstamped distilled spirits containers
        - Empty distilled spirits container with stamps not mutilated per the requirements
        - Subterfuge
        - Purchasing from an illicit source
    - Note any temporary permits issued and their effective dates.
    - Review all applicable TABC Marketing Practices Bulletins for Code and Rule changes and interpretations.
- Review the prior audit to determine if subsequent changes impact the current audit.
    - Note if a closing inventory was taken.
    - Note bartender or key personnel.
    - Note suppliers/vendors.
    - Note selling prices and promotional periods.
    - Note computed average selling prices and the computation methods.
    - Note the pouring methods, quantities poured, and glass sizes.
    - Note the services per container and computation method.
    - Review all IAR and hearing decisions, if any that relate to the prior audit.
    - Review State Tax Automated Research system (STAR) for hearing decisions or other unusual issues that may have changed subsequent to the prior audit.
- Review Comptroller, TABC and Secretary of State data to determine any affiliated/related businesses.
- Identity the type of business with emphasis on the certain operational aspects impacting MBGRT.
    - Hotel (consider: minibars, internal restaurants, caterers' permits, banquet rooms, internal package store, etc.)
    - Full Service Restaurant (consider: chain or franchise operation, caterers permit, banquets, etc.)
    - "Typical" bar / night club (consider: live entertainment, dancing, cover charges, food service, etc.)
    - Adult Club (consider: minimum drink purchase, cover charge, "girls" drinks, room or table charges, food service, etc.)
    - Private Club (consider: pool or locker system, beverage replacement percentage and documentation, etc.)
- Conduct internet research and analysis of the taxpayer being audited.

- » Pictures
    - ° Age
    - ° Bar Area (taps, cooler boxes, meter systems, etc.)
    - ° Tables (beer pitchers, food, etc.)
    - ° Dance floor
    - ° Number/location of cash registers
    - ° Neon or other signs depicting available brands (useful to determine suppliers/vendors)
- » References to special events
    - ° Super Bowl
    - ° New Year's Eve or other major holidays
    - ° Sunday brunch (especially if "free" drinks are included with the meal)
    - ° Tasting
    - ° Conferences
    - ° Tournaments

Initial Telephone Contact

After receiving the audit questionnaire, the auditor will contact the taxpayer to set an appointment for the entrance conference (see chapter 3). This preliminary discussion includes many general topics common with other tax types audited by the Comptroller including, but not limited to, the following:

- Purpose of the audit - to ensure compliance with the state tax laws and reporting procedures
- Tax or taxes being audited
- Audit period
- Securing any applicable statute waivers
- Taxpayer's business operations, business activities, and organization of the corporation
- Business hours of operations
- Taxpayer's accounting system and reporting activity
- Personnel preparing tax return as well as any related personnel changes
- Records and workpapers used to prepare the tax returns
- Location and availability of other financial statements
- List of suppliers and vendors used to purchase alcoholic beverages
- List of suppliers and vendors used to purchase glassware and other bar supplies
- Internal controls used to determine if returns are prepared accurately
- Internal controls used to monitor and account for the disposition of alcoholic beverages
- Types of source documents
- Availability and location of records including but not limited to the following:
    - » Sales and service source documents (i.e. cash register tapes, service checks, POS details and summaries). If a POS system is used, obtain a listing of all detail and summary reports available.

- » Complimentary drink source documents (i.e. dated service checks either through hard copy format or a POS system)
- » Daily summaries recapping each days sales or service fees by class of beverage
- » Daily summaries recapping each days complimentary drinks by number and normal value for each class of beverage
- » Purchase invoices for all alcoholic beverages for the audit period
- » Purchase invoices for all glassware and pouring devices for the audit period
- » Police reports to support any theft claims
- » Distributor documentation supporting beer loss due to line cleaning
- » Vendor documentation supporting meter system calibration, adjustment or changes
- » Price list, current and otherwise with all change dates
- » Promotion list for special events and daily specials/happy hour
- » Bank statements for reflecting deposits and disbursements
- » Credit card statements and summaries

The extent of the pre-audit research should be documented in the audit plan.

Chapter 3
Entrance Conference

Generally the entrance conference is the first face-to-face meeting with the taxpayer and/or taxpayer's representative prior to beginning the examination of the taxpayer's books and records and the first opportunity to inspect the taxpayers/permittees licensed premises. Unlike other tax audits, a mixed beverage gross receipts audit is both financial and operational. Accurate audit results depend on the taxpayer/permittee, bartender, accountant/bookkeeper, wait staff and other employees providing the auditor complete operational details. Likewise it is important to ask thorough and specific questions assuring an in-depth understanding of the taxpayer/permittees operation. Effective pre-audit research is essential to provide familiarity with the operation enabling a set of tailored questions specific to each audit.

If the TABC permit is active, it is preferable that the entrance conference take place on the licensed premises. An inspection of the licensed premise is an essential component of the entrance conference and should be conducted prior to or in conjunction with the entrance conference. The initial observations made by the auditor during this inspection process are integral to the audit process and will aid the auditor in evaluating the validity of the information provided by the taxpayer during the entrance conference and on the mixed beverage questionnaire. The inspection should focus on the subject areas included in the management/employee mixed beverage questionnaire and the following observations:

- Determine the number of bars and/or beverage preparation areas and document the schedule on which each area is operated.
- Observe the number and location of all storage areas excluding the bar. Special attention should be given to kitchen areas. Security and access to these areas should be reviewed and documented as part of internal control verification. See TABC Marketing Practices Bulletin MPB034 dealing with alcoholic beverages used in cooking.
- Cash Registers (non-POS systems):
  - » Observe the number of cash registers.
  - » Note the cash register brand and service tags (to determine service company).
  - » Record the key coding system and whether the keys are preset or open (variable).
  - » Determine if each register is independent or linked to a computer.
  - » Request a current reading of transaction numbers and record those numbers for each register. The transaction numbers are needed for internal control verification.
- Cash Registers (POS systems)
  - » Determine available reports.
  - » Ask the taxpayer what reports are generated and the purpose.
  - » Request a report containing daily and/or monthly sales consisting of dollars and units. This will aid in calculating an average selling price (or average service fee if auditing a private club).
- Observe the usage of service check pads to document verified allowances (complimentary drinks) and record the sequence numbers. These numbers can be used for internal control verification.

- Examine all distilled spirit containers for the presence of TABC ID stamps. All full or partially filled distilled spirit containers must have a TABC identification stamp affixed to the container. All empty distilled spirit containers must bear a mutilated identification stamp. Verify the empty containers have mutilated stamps. Unstamped distilled spirit containers whether full or empty are illegal on a licensed premise. Any irregularities involving TABC identification stamps should be discussed first with the audit supervisor who will forward to the proper person in audit headquarters. Record a minimum of ten (10) stamp numbers trying to pick different series or widely spaced numbers selecting from slow-moving cordial and liqueurs as well as fast-moving well and call brands for later verification and supplier matching.
- Document all pouring devices including Posi-Pours (and color), free flow pourers, shot glasses, automated pouring dispensers, batch processors (i.e., margarita machine) and the sizes of each. Note if different devices are used with specific brands or categories. This information will aid in calculating services per container.
- Measure and document all glassware and pitcher sizes using a calibrated gradual cylinder. Categorize by beverage class and usage. This information will aid in calculating services per container.
- Document the brand names on all draft beer spigots; this will aid in identifying beer distributors. Observe the draft beer's storage location, distance between the kegs and spigot, routing and insulation of beer lines, size of beer lines, type of carbonation equipment, and the equipment's vendor or services agent.
- Note any brochures, advertising, signs or other evidence of promotions, happy hours, bands, contests, ladies' night etc.

The inspection and mixed beverage questionnaire prepare the auditor to discuss the business and day to day operations with the taxpayer and other employees. The questionnaire should be completed by the taxpayer during the entrance conference. The taxpayer should review, sign, and date the questionnaire, and the auditor should include in the audit plan. When possible, a separate conference and mixed beverage questionnaire should be completed for both management and bartenders. Reconcile any differences in questionnaires and explain any inconsistencies in the audit plan.

The entrance conference is typically the first opportunity to inquire about the taxpayer's pouring policy if an observation was not performed prior to contacting the taxpayer. Ask the taxpayer for their operations manual, policy and procedures manual, written pouring guidelines, or recipe list. Obtain a copy of this documentation to include in the audit workpapers. Lack of written documentation is a major internal control weakness. Review sales source records with the taxpayer to determine if the records clearly identify transactions with distilled spirit pours other than the standard pour (single base distilled spirit such as a highball). Rule 3.1001 requires such distinction and its omission is an internal control weakness. Discuss with the taxpayer and bartender which liqueurs, cordials, or other distilled spirits are mixed with another primary distilled spirit and how these sales or services are noted on the source records. Employment and personnel records are helpful to document employment periods for all bartenders or others responsible for preparing alcoholic beverages. The mixed beverage questionnaire should identify all employees that have had TABC server/seller training and possess a certificate.

The taxpayer should provide a list of current selling prices and a record of all dates and price changes during the audit period. The taxpayer should also provide a list of all current and past promotional periods, both daily and special events. Request that the taxpayer provide source records to illustrate these changes. The mixed beverage questionnaire addresses this topic in detail, and it is further discussed in Chapter 6 of this manual. The taxpayer's/permittee's failure to maintain or provide this documentation is a major internal control weakness.

The entrance conference is also an appropriate time to discuss the methodology of the alcoholic beverage depletion analysis and how the information obtained from the questionnaire, taxpayer's books, and supplier sales data will be used to verify whether sufficient mixed beverage tax has been reported.

At the close of the entrance conference the auditor should emphasize the need for the taxpayer to provide complete and accurate books and records. Incomplete, missing records or non-compliant records generally work to the detriment of the taxpayer. Even though the taxpayer may feel as if they have provided complete records, the auditor should inform the taxpayer that the audit may result in an assessment due to sales not being properly recorded (i.e., cash sales not going through the register). Advise the taxpayer that Rule 3.1001 considers taxable the disposition of all alcoholic beverages purchased by the permittee until the contrary is established through authentic books and records conforming to all statutes and rules. The primary types of records needed for a mixed beverage audit and a brief description are listed in the table below:

Record	Description
Sales source records	Cash register tape, service check, or POS system that identifies each separate alcoholic beverage unit sold (or served if a private club) by different service size within each class of beverage and the price charged for each unit sold (or served if a private club). All sales source records should be completely dated and grouped together by date. Taxpayers using a POS system are required to maintain daily hardcopy detailed transaction lists/tapes to ensure document retention in the event of a hardware or software failure or change.
Sales summaries	A summary of each day's sales or service charges itemized by class of beverage. A POS system should have both units served and unit value.
Purchase invoices	Copies of the taxpayer's purchase invoices for all alcoholic beverages
Purchase summaries	A summary of each purchase itemized by beverage category. Examples included, but are not limited to the following: federal income tax returns, financial statements, purchase journals, bank statements
Verified allowances	Rule 3.1001 enumerates several items excluded from the mixed beverage gross receipts tax base and the documentation required to substantiate such claims: (1) Complimentary alcoholic beverages (2) Voluntary gratuities (3) Reasonable mandatory gratuity charges (4) Walked checks or tabs (5) Cover charges, door charges, entry fees, or admission fees that are assumed for entertainment, food specials, and other purposes (6) Bad debts (7) Alcohol loss due to spillage or breakage (8) Alcoholic beverages used in cooking (9) Alcoholic beverages lost through theft (police report required) (10) Alcoholic beverages lost through a disaster (documentation required) (11) Alcoholic beverages lost through cleaning, servicing, or repair of dispensing equipment lines See verified allowances section in chapter 6 for additional information.

Knowledgeable taxpayers/permittees familiar with our audit procedures may use the entrance conference and inspection process to misinform the auditor by removing or replacing glasses, resetting meters, replacing shot glasses with larger sizes, counseling personnel, or various other means. Observations and information noted in entrance conference and/or initial inspection can be validated or repudiated by conducting a second inspection later in the audit process. In many situations, with CPA management approval, it may be advantageous for the auditor to anonymously observe the business during typical operational hours (usually evening or night) to gain a more accurate understanding of the operating conditions and drink preparation procedures without influencing employee conduct. In situations where gross under-reporting of sales is suspected, it would be advantageous to conduct surveillance before the audit is generated.

Chapter 4
Internal Controls

Internal controls in a gross receipts environment consist not only of typical accounting controls but also physical and operational controls placed on the alcoholic beverages. The taxpayer's system of internal controls must be analyzed and evaluated to determine the reliability of the records being examined and to determine if these controls provide an adequate accounting of the physical disposition of all alcoholic beverages purchased. The depth of the audit examination and audit procedures employed are determined largely by the reliability of the taxpayer's internal control system.

Evaluating the internal controls of the accounting records requires the MBGRT taxpayer/permittee to have a basic accounting system and records. A business should have at least a general ledger, a cash receipts journal, a cash disbursements journal, a payroll journal and an inventory-control system. Some sort of financial statement or report should be done on a periodic basis and the taxpayer/permittee should make comparisons of this statement with a budgetary report. The absence of this information in and of itself indicates a lack of internal control.

Good internal controls have several general overlying characteristics including the following:

- Clearly defined responsibilities for each function
- Adequate system of authorization
- Adequate supervision of duties
- Adequate documentation
- Adequate protective measures (i.e., locked rooms for inventory, etc.)
- Segregation of duties
- Internal verification

These broad concepts only provide general evaluations whereas MBGRT audits require a detailed analysis of the controls utilized and their effectiveness in managing record keeping and inventory control. To further evaluate internal controls each major phase or cycle of the operation must be individually analyzed. These cycles may be broken down into three major phases: purchasing, sales/cash, and inventory. Each has separate control considerations.

Purchasing:

- Separation of duties: Purchasing and receiving are separate duties and should employ different personnel.
- Ordering personnel should use sequentially numbered purchase orders.
- Management should review purchase orders prior to purchase.
- Receiving personnel should review and reconcile merchandise received to the purchase invoice and the purchase order.
- Receiving personnel should reconcile the TABC ID Stamp numbers on the distilled spirits bottles with those noted on the invoice.

- Bartender should not be ordering or receiving merchandise.
- Purchase invoices should be reconciled to the accounts payable journal.
- Purchase invoices should be filed by vendor and date sequence.
- Purchases should not be paid in cash from the cash register.
- Distilled spirits and wine should be purchased on credit and paid in accordance with the TABC "credit law".
- Beer should be paid by prepaid account or by check in accordance with the TABC "cash law".
- All merchandise purchased should immediately be stored in a secure location with limited access by management only.

Sales/Cash Register:

- Separation of duties: No individual employee should handle a sales transaction from beginning to end.
- Bartender and all wait staff should be certified as having completed a TABC "Seller/Server Training" class.
- Wait staff should record drink orders on sequentially numbered service checks. These checks should be reviewed daily by management or owner for sequence, form, and compliance with established policies. All used service checks should be deposited at the shift end. First and last service checks are recorded by number for ticket control. Any missing service checks should be investigated by management. Only the manager or owner should handle service check sets. Check totals should be reconciled to cash register and credit card totals.
- Cash register entry should be restricted and separated from order taking and drink preparation.
- Cash registers should be centrally located and within easy viewing of customers and other staff.
- Cash registers should be correctly coded to reflect all required sales
- Only one employee (and management) should have access to each cash register during the shift.
- Cash register readings should be taken after every shift.
- The beginning cash register transaction number should be compared to the ending transaction number from the prior day to spot missing register tapes and therefore undocumented transactions.
- The cashier should start the shift with a predetermined amount in the drawer (bank).
- The drawer should be reconciled with cash register readings after every shift.
- Large amounts of collected sales should be removed by the manager during the shift and held in a secure change fund until shift reconciliation.
- Complimentary drink service should require separate authorization from management.
- Daily sales from service checks should be reconciled to cash register tapes.
- Cash and credit sales should be reconciled to the cash register tapes.
- Cash register tapes should be reconciled to daily summaries and bank deposits.
- Spill and returns must be reconciled and summarized.
- Sales should be reconciled via a depletion analysis and/or cost analysis on a weekly or monthly basis to identify inconsistencies.

Inventory control:

This includes storage and disposition of all alcoholic beverages.

- A physical inventory of all alcoholic beverages should be on a periodic basis, preferably once a week or at a minimum once a month. The inventory should be by class of beverage and/or brand by container size and priced out for use in weekly or monthly cost of goods sold analysis.
- All alcoholic beverage inventories should be stored in a locked, secure room only accessible by management.
- All alcoholic beverages located in the bar, kitchen, or other beverage or service area should be removed from shelves, bar backs and display racks and stored overnight in a locked secure room or in locked secure cabinet assessable only by management or the on-duty bartender.
- Require that alcoholic beverages used in the kitchen for cooking be documented on requisition sheets from the locked secured inventory or these beverages be invoiced on a separate invoice clearly labeled as for use in cooking and stored in the kitchen or area apart from other alcoholic beverages.
- Empty distilled spirit bottles must have the TABC ID stamp mutilated and should be counted and reconciled with requisitions prior to being discarded.
- Distilled spirits inventory should be used on a first in first out basis to prevent aging of TABC ID Stamps.
- Management should have a clearly written policy stating the methodology and pouring criteria for distilled spirits.
  - » Dispensing methods in descending order of control are meter systems, calibrated shot glasses/jiggers, free pour
  - » Dispensing alcoholic beverage before any other ingredients (other than ice) are added to the glass
  - » Preparing the mixed beverage in clear view of the customer and wait staff
  - » Holding the bartender accountable to mandated pouring guidelines and practices and Management
- Require bartenders and wait staff to provide cash register receipts for individual sales made directly at the bar to minimize the chance of sales not being rung on the register.
- Require bartenders and wait staff to provide a cash register receipt or service check imprinted by cash register when presenting a customer bill (tab) for payment to minimize the chance of sales not being rung through the register.
- Documentation of complimentary drinks must conform to CPA Rule 3.1001. Management approval should be required to any complimentary drink service.

Chapter 5

Gross Receipts Reconciliation

A gross receipts reconciliation should be completed for the audit period when available records exist. Gross receipts from the sale or service of alcoholic beverages should be vouched from the original source records to daily summaries and to the tax report for each class of beverage. If monthly summaries are not available, the auditor should consider alternative sources of information including, but not limited to, bank statements and federal income tax returns. If daily summaries are not available, the auditor should consider totaling original source records for a few months to determine whether gross receipts have been reported correctly. Analyzing the cost of goods sold percentage will generally indicate whether sufficient gross receipts have been reported. Cover charges are usually subject to limited sales tax unless the TABC has determined that the charge is in violation of TABC rule. After TABC notifies the taxpayer of any violations by issuance of a citation subject to fine, the taxpayer should report cover charges on the mixed beverage gross receipts tax return subject to the 14% tax. Warning violations issued by TABC do not require cover charges to be reported.

Adjustments to reported receipts can occur for several reasons. Some of the more common adjustments include the following:

1. Transposition errors – One or more categories of alcoholic beverages may be entered incorrectly on the return. For example, in the table below, it is apparent that there are two reporting errors assuming that the taxpayer's reported sales are fairly consistent throughout the audit period. First, for 1204, it appears that the wine and beer sales were reversed when entered on the return. Second, for 1205, all alcoholic beverage sales were consolidated into the distilled spirits category. The auditor should verify the taxpayer's records for these months and make the necessary corrections. While there will be no tax consequence of these errors, it is necessary to place the amounts in the proper category for the calculation of the proper error percentage when completing the alcoholic beverage depletion analysis (ABDA).

YYMM	Distilled Spirits	Wine	Beer	Total
1201	$15,550	$ 450	$15,000	$31,000
1202	$16,250	$ 550	$15,200	$32,000
1203	$16,500	$ 500	$16,500	$33,500
1204	$17,000	$16,000	$ 600	$33,600
1205	$35,000	$ 0	$ 0	$35,000

2. "Backing out" tax – Although tax should be calculated at 14% on the total gross receipts, some taxpayers may back out this tax. Some may divide total receipts by 1.14. Others may multiply the total gross receipts by 86%. This could be a manual calculation by the person preparing the return, or this could be done automatically by certain software systems.
3. "Tax reimbursement" – Effective 6/17/11, mixed beverage taxpayers are allowed to provide on an invoice, receipt or bill a separate statement of the amount of mixed beverage tax to be paid by the permittee on the customer's purchase of alcohol. The mixed beverage tax disclosure statement is for informational purposes only. It may not be separately charged to, or paid by, the customer and may not be shown as part of the calculation of charges to a customer on the invoice, receipt or bill. This includes any charge labeled a "Tax Reimbursement." If a separately stated charge for "Tax Reimbursement" is included, this amount should be scheduled as error tax only and should not be

included in the total gross receipts amount. There are three possibilities for adjustments when the taxpayer bills the customer for this tax and how the taxpayer has reported it."

Situation 1

		What tax amount should have been reported?			What tax amount was reported?			What additional tax amount is due?		
	1	2	3	4	5	6	7	8	9	10
Itemized Bill Description	Itemized Bill Amount	Gross Receipts Tax-14% (1 X 14%)	Error Tax	Total Tax Due (2+3)	Gross Receipts Tax-14%	Error Tax	Total Tax Reported (5+6)	Gross Receipts Tax-14% (2-5)	Error Tax (3-6)	Additional Tax Due (8+9)
Mixed Drink	$ 10.00	$ 1.40	$ -	$ 1.40	$ 1.40	$ -	$ 1.40	$ -	$ -	$ -
"Tax Reimbursement"	1.40	-	1.40	1.40	-	-	-	-	1.40	1.40
Total	$ 11.40	$ 1.40	$ 1.40	$ 2.80	$ 1.40	$ -	$ 1.40	$ -	$ 1.40	$ 1.40

Situation 2

		What tax amount should have been reported?			What tax amount was reported?			What additional tax amount is due?		
	1	2	3	4	5	6	7	8	9	10
Itemized Bill Description	Itemized Bill Amount	Gross Receipts Tax-14% (1 X 14%)	Error Tax	Total Tax Due (2+3)	Gross Receipts Tax-14%	Error Tax	Total Tax Reported (5+6)	Gross Receipts Tax-14% (2-5)	Error Tax (3-6)	Additional Tax Due (8+9)
Mixed Drink	$ 10.00	$ 1.40	$ -	$ 1.40	$ -	$ -	$ -	$ 1.40	$ -	$ 1.40
"Tax Reimbursement"	1.40	-	1.40	1.40	-	-	-	-	1.40	1.40
Total	$ 11.40	$ 1.40	$ 1.40	$ 2.80	$ -	$ -	$ -	$ -	$ 1.40	$ 1.40

Situation 3 (included "Tax Reimbursement" in gross receipts total)

		What tax amount should have been reported?			What tax amount was reported?			What additional tax amount is due?		
	1	2	3	4	5	6	7	8	9	10
Itemized Bill Description	Itemized Bill Amount	Gross Receipts Tax-14% (1 X 14%)	Error Tax	Total Tax Due (2+3)	Gross Receipts Tax-14%	Error Tax	Total Tax Reported (5+6)	Gross Receipts Tax-14% (2-5)	Error Tax (3-6)	Additional Tax Due (8+9)
Mixed Drink	$ 10.00	$ 1.40	$ -	$ 1.40	$ 1.40	$ -	$ 1.40	$ -	$ -	$ -
"Tax Reimbursement"	1.40	-	1.40	1.40	0.20	-	0.20	(0.20)	1.40	1.20
Total	$ 11.40	$ 1.40	$ 1.40	$ 2.80	$ 1.40	$ 0.20	$ 1.60	$ -	$ 1.40	$ 1.20

Due to the variety of adjustments in a mixed beverage audit as mentioned above, the auditor may create a spreadsheet with any reconciliation adjustments or use Exam 1I in the mixed beverage audit exam template. If the gross receipts reconciliation is the only audit adjustment, the auditor may find it easier to create a separate spreadsheet. However, if audit adjustments involve both the gross receipts reconciliation and a depletion analysis, the auditor will need to use Exam 1I in the mixed beverage audit exam template so that reported receipts can be adjusted and converted to audited gross receipts. Audited gross receipts will be multiplied by an error percentage to calculate additional taxable gross receipts for the alcoholic beverage depletion analysis (ABDA). An example of Exam 1I in the mixed beverage audit exam template is included below.

WHK Investments, DBA Wild Bill's
123 Main Street, Anywhere, Somewhere
Gross Receipts

EXAM 1I
1-234567890-3
MB123456
Jane Smith

1	2	3	4	5	6	7	8	9	10	11	12	13
	AUDITED GROSS RECEIPTS				REPORTED GROSS RECEIPTS				ADJUSTMENTS TO REPORTED GROSS RECEIPTS			
REPORT PERIOD (YYMM)	DISTILLED SPIRITS	WINE	BEER	TOTAL	DISTILLED SPIRITS	WINE	BEER	TOTAL	DISTILLED SPIRITS	WINE	BEER	TOTAL ADDITIONAL GROSS RECEIPTS
	Per taxpayer records	Per taxpayer records	Per taxpayer records	2+3+4	History	History	History	6+7+8	2 - 6	3 - 7	4 - 8	10+11+12
	(A)	(A)	(A)		(B)	(B)	(B)					(C)
1101	$ 15,348.75	$ 17.50	$ 6,038.00	$ 21,404.25	$ 12,838.00	$ 6,039.00	$ 18.00	$ 18,895.00	$ 2,510.75	$ (6,021.50)	$ 6,020.00	$ 2,509.25
1102	13,830.50	21.50	4,984.50	18,836.50	11,141.00	22.00	2,978.00	14,141.00	2,689.50	(0.50)	2,006.50	4,695.50
1103	14,555.75	26.00	6,366.52	20,948.27	9,705.00	24.00	4,367.00	14,096.00	4,850.75	2.00	1,999.52	6,852.27
1104	29,663.25	502.50	16,916.91	47,082.66	25,242.00	257.00	14,917.00	40,416.00	4,421.25	245.50	1,999.91	6,666.66
1105	47,855.75	194.50	25,227.35	73,277.60	44,135.00	195.00	23,227.00	67,557.00	3,720.75	(0.50)	2,000.35	5,720.60
1106	36,738.50	298.00	25,571.33	62,607.83	32,717.00	298.00	23,574.00	56,589.00	4,021.50	-	1,997.33	6,018.83
1107	34,415.25	185.00	23,805.75	58,406.00	29,381.00	283.00	20,806.00	50,470.00	5,034.25	(98.00)	2,999.75	7,936.00
1108	37,087.00	273.00	22,866.50	60,226.50	28,023.00	266.00	18,306.00	46,595.00	9,064.00	7.00	4,560.50	13,631.50
1109	32,574.25	95.00	22,739.50	55,408.75	28,203.00	95.00	19,894.00	48,192.00	4,371.25	-	2,845.50	7,216.75
1110	40,201.75	210.00	26,632.50	67,044.25	37,928.00	210.00	24,857.00	62,995.00	2,273.75	-	1,775.50	4,049.25
1111	28,856.00	158.50	20,822.25	49,836.75	25,859.00	159.00	18,822.00	44,840.00	2,997.00	(0.50)	2,000.25	4,996.75
1112	36,342.75	95.50	21,376.14	57,814.39	31,597.00	96.00	19,376.00	51,069.00	4,745.75	(0.50)	2,000.14	6,745.39
Total	$ 367,469.50	$ 2,077.00	$ 223,347.25	$ 592,893.75	$ 316,769.00	$ 7,944.00	$ 191,142.00	$ 515,855.00	$ 50,700.50	$ (5,867.00)	$ 32,205.25	$ 77,038.75
	(D)	(D)	(D)									

Footnotes:
(A) Amounts obtained from taxpayer's sales records when available and reliable; otherwise, audited gross receipts will equal reported gross receipts in columns 6 through 9.
(B) Reported gross taxable receipts obtained from mixed beverage gross receipts tax returns.
(C) Taxable adjustments resulting from reconciliation of taxpayer's sales records. These monthly adjustments are forwarded to Exam 1, Column 2, Reconciliation Adjustments.
(D) These totals forwarded to Exam 1B, Line 14, in the applicable beverage class column if components are detailed.

Chapter 6

Alcoholic Beverage Depletion Analysis

Overview of ABDA

The alcoholic beverage depletion analysis is a procedure to determine gross receipts based on the volume of alcoholic beverage purchases. Each beverage class (distilled spirits, beer, and wine) uses the following basic formula for calculating potential gross receipts.

	Opening inventory	
+	**Purchases** (*)	
-	Closing inventory	
=	Containers available for sale	
X	**Services per container** (*)	(Container size / serving size = svcs. per container)
=	Servings available for sale	
-	Verified allowances (comps, spills, other)	**Option 1 – based on units
=	Net services available for sale	
X	**Average selling price** (*)	
=	$ Calculated gross receipts	
-	Verified allowances (comps, spills, other)	**Option 2 – based on dollars
-	$ Audited taxable gross receipts	
=	$ Additional taxable gross receipts	
/	$ Audited taxable gross receipts	
=	Gross error percentage (unadjusted)	
X	95%	
=	Error percentage (adjusted)	Each of the 3 beverage categories is evaluated independently.
X	$ Audited taxable gross receipts	
=	$ Adjusted additional taxable gross receipts	
X	14% tax rate	
=	$ Tax due	

* These are the primary components for calculating taxable gross receipts.
** The auditor will use either Option 1 or Option 2 but not both. Option 2 has very limited use. See verified allowances section.

Methods of calculating components of ABDA

Any audit adjustment resulting from the depletion analysis will be considered an estimated audit due to the various components comprising the calculation. Most audit adjustments result from inventory pilferage and/or misappropriated sales, and these indicate that adequate records have not been maintained to properly account for taxable gross receipts. The auditor should make every effort to ensure that the best information available has been used to calculate the audit adjustment.

HB 11 (82nd Regular Session, 2011), added brewers, manufacturers, and package store local distributors to the list to file reports with the Comptroller related to alcoholic beverage sales to retailers in this state. Effective 9/1/11, all alcoholic beverage purchase data in a detailed format will be available to auditors for distilled spirits, wine, and beer. Auditors should request from audit headquarters this detailed, purchase data for every mixed beverage audit. This information can be used for internal control purposes and compiling the purchases component of the depletion analysis as this information would be considered the best available. HB 11 (80th Regular Session, 2007) required wholesalers and distributors to report alcoholic beverage purchases of beer, wine, and malt liquor.

The components of the ABDA may be calculated using any of the three basic auditing methods: detail, sample, or estimate. An audit may include a combination of the methods depending on record availability and reliability for the different components of the depletion analysis. The auditor should use the method resulting in the most accurate audit as determined by information obtained through pre-audit research, entrance conference, internal control verification, and questionnaires.

Detail:
Having both complete sales source records and alcoholic beverage purchase invoices for the audit period allows the auditor to detail and usually establish a more accurate estimate of the taxpayer's mixed beverage gross receipts. Complete records mean taxpayer-provided records that are available and reliable for the audit period. Having a few missing daily sales source records will not be considered incomplete records as long as most daily sales source records are available and traceable to daily sales summaries. If the sales summaries are reliable (i.e., contain each day's sales for the audit period) and reconcile to reported sales, then records are considered complete. Purchase invoices are considered complete when obtained solely from the taxpayer. The auditor should verify the completeness of taxpayer records by comparing to HB11 vendor data and invoices/summaries provided by the vendors. Having a few missing purchase invoices will not be considered incomplete records as long as most purchase invoices are available and traceable to purchase journals or reconcilable to HB11 vendor data or vendor invoices/summaries provided to the auditor. If the purchase journals are reliable (i.e., contain each week's or month's purchases for the audit period) and reconcile to reported purchases per HB11 data and/or vendor data, then records are considered complete. As long as the taxpayer has maintained complete purchase invoices for the audit period, the auditor may use electronic vendor records to efficiently categorize purchases on the ABDA template. The vendor information would be included as either an exhibit or placed behind the audit plan. If vendor information is voluminous, the auditor may include a copy of the electronic file as a backup and include printed copies as workpapers. Generally, it is helpful to highlight any secondary distilled spirits to maintain an audit trail.

Detailing is easily accomplished when the taxpayer can generate detailed POS reports and the auditor can obtain detailed, electronic vendor records that that can be reconciled to taxpayer purchase invoices and summaries. However, if hard-copy purchase invoices are the only available records, then generating a six-month sample may be more time efficient for categorizing purchases on the ABDA template and can be as accurate as a detail as long as the sample is evaluated upfront.

Sample:
Record requirements for a sample are the same as for a detail; the only difference is the records examined are limited to those of the selected sample units. If the auditor generates a sample, sampling guidelines should be followed to provide more credibility for the estimated audit results if the taxpayer decides to challenge at a later date. Also, when complete records exist for all components, and the auditor decides to sample, the auditor should use the same sample for all components, whenever possible (see exception below for average selling price), to ensure correct results.

Due to the type of record-keeping associated with mixed beverage audits, time period sampling is the most common type of sample unit selected. Time period sampling requires the use of 30 days, 20 weeks, or 6 months as the minimum sample size. Time period sampling requires that the variation percentage be 15% or below. The variation percentage is calculated by using the audited gross receipts amounts for the audit period or applicable time frame being reviewed: = 1 – lower of sample or population base average / higher of sample or population base average. Also, the selected time periods should be adequately dispersed throughout the audit period (or available time frame with records) and not heavily weighted to any particular period. Using three or more consecutive months is not adequately dispersed unless those consecutive months are the only available information. Additionally, understanding the taxpayer's operations when sales volume is high or low is also an important consideration for the auditor. For example, selecting more summer months for a taxpayer with operations near a lake or that has outdoor concerts would not be representative. Also, selecting more time periods during playoff season for a club that is near a sports venue would not be representative. Unless records are not available or only available for a limited time, auditors need to ensure that periods evaluate, are adequately dispersed, and are representative of the taxpayer's operations.

One exception exists for sampling procedures related to the average selling price component of a mixed beverage depletion analysis when the auditor is unable to obtain computerized point-of-sale summary reports for the selected sample periods. For this component, the auditor should review a minimum of 250 drinks per beverage category. The average selling price may be affected by price changes. If the auditor determines that price changes have occurred, it may be necessary for the auditor to calculate more than one average selling price for each time frame using available sales records. For example, assume the auditor selected a 6-month sample to review the various components for the depletion analysis. Also, assume that the only sales records available were cash register tapes, and the bar uses five registers. The auditor may decide to select only the first week of each of the 6 months and perhaps only cash register tapes for two or three of the five registers to calculate the average selling price. If the auditor determines that the average selling price for each beverage component is fairly consistent for the selected periods, the auditor would not need to review additional records. If the auditor discovers inconsistencies among the periods and registers selected, the auditor should consider reviewing additional periods of cash register tapes in the calculation of the average selling price.

Estimate:
While any audit adjustments using the depletion analysis will be considered an estimate, there may be certain components of the ABDA or time periods for which adequate records were not maintained and will require using the best information available to estimate that portion of the audit. The estimate may be based on a sample, detail, or a combination of both depending on record availability. The auditor should ensure that the best information available has been used in calculating any estimated portion. For example, if alcoholic beverage sales were only available for the last two years of a four-year audit period, an auditor will either detail or sample the two-year period with records. The earlier two years without records could be estimated using the error rate established for the two-year timeframe with records. Remember that HB11 detailed, electronic data is available as of September 2011 for the purchase component of a depletion analysis and would be considered the best information available.

Description of components of ABDA

Opening and closing inventory

Usually the type of operation will determine whether inventory records are available to use for an ABDA. Larger establishments including hotels and chain restaurants will most likely maintain these types of records since managers' commissions are normally based on good inventory controls. Smaller operations may not maintain inventory records. Although inventory records are not a specifically listed record-keeping requirement in Rule 3.1001, certain sections of the rule imply the importance of maintaining them. Section (o)(1) states that the Comptroller presumes that the disposition of all alcoholic beverages purchased by the permittee is taxable until established otherwise. Section (l)(3) states that each permittee must maintain a daily summary for alcoholic beverages that were lost through theft, showing the number of containers lost by size, brand, and class. The theft must be reported to the proper police department and must be substantiated by the report of such police department.

Auditors should request available inventory records for the audit period. If the taxpayer has not maintained reliable inventory records, the auditor will use zero as both opening and closing inventory amounts. If the auditor is performing a detailed audit and inventory records are available, the auditor would use opening inventory figures for the first period of the audit and use closing inventory figures for the last period of the audit. If the auditor is performing a sampled audit (which will normally be a 6-month sample) and inventory records are available, the auditor will use opening and closing inventory figures for each of the selected sample units. Ending inventories will not be allowed when beginning inventories are not available. Please see Special Topics regarding taxpayers who may have begun or ended operations during the audit period.

Purchases

Purchases are the most important component of the ABDA. The ABDA method primarily relies on having complete purchase information. Thus, it is imperative that the auditor locate all vendors who have sold alcoholic beverages to the taxpayer under audit. Obtaining HB11 vendor data and vendor records and verifying TABC stamp numbers on distilled spirit containers aid the auditor in accounting for all purchases during the audit period. If a taxpayer is purchasing alcoholic beverages from other unauthorized sources, the ABDA will be understated.

Exam 1D of the mixed beverage template is used to schedule purchases for either the entire audit period or for the selected sample units. The auditor should schedule the vendor name, invoice date, the dollar amount, and the number of containers for each alcoholic beverage category by container size. Bar supply items such as non-alcoholic mixers, napkins, glassware and other bar supplies should be excluded from the invoice total to provide a more accurate figure for cost of goods sold calculations.

Distinguishing primary vs. secondary distilled spirits

One of the more difficult and time-consuming procedures for auditors who are relatively unfamiliar with bar operations is distinguishing primary and secondary distilled spirits. Primary distilled spirits are those that are the main alcoholic beverage in a mixed drink. Secondary distilled spirits are those that are added, usually in a smaller amount than the primary, to the drink. Secondary distilled spirits are never the only ones in a mixed drink.

Primary distilled spirits include whiskey (including bourbon), scotch, vodka, gin, rum, brandy (including cognac) and tequila. There also are distilled spirits that are classified as liqueurs that can be the primary alcoholic beverage in a drink, and are often served with no mixers. Many are classified as after-dinner drinks. These include Amaretto, Benedictine, Cointreau, Grand Marnier, etc. Shots of schnapps are also popular.

Secondary distilled spirits include triple sec, crème de menthe, crème de cacao and the less expensive fruit-flavored brandies. The purchase frequency of secondary distilled spirits will depend on the type of bar operation. For example, if the clientele is younger, it may be common to have a larger volume of secondary distilled spirits.

Another challenge involves distilled spirits that can be either primary or secondary. Kahlua, Bailey's Irish Cream, Southern Comfort and numerous brandies can be secondary in some mixed drinks, but are often served "straight" or "on the rocks." Cointreau and Grand Marnier can be substituted for triple sec in the more expensive (commonly called top shelf) margaritas. Sometimes the purchase invoice will group the types of distilled spirit purchases. One of the groups is classified as cordials. While the cordial group will generally contain the secondary distilled spirits, auditors should be aware that Jagermeister, Goldschlager, and Tuaca may be listed in this category and are classified as primary distilled spirits. The auditor should thoroughly discuss with the taxpayer the types of distilled spirits used as both primary and secondary to decide what percentage are used as primary.

Although secondary distilled spirits are excluded from the calculation of the ABDA, the dollar amount of the purchases should be included to aid in the cost of goods sold calculations used for analysis purposes. Also, it's helpful to include the quantity by container size in the secondary column to use as a check figure for the scheduled invoice. The secondary distilled spirits are classified in the secondary column on the purchases exam (1D) because the assumption is that no mixed drink can be prepared and sold that contains a secondary liquor as the only alcoholic ingredient. For example, the distilled spirits used in an ordinary margarita are tequila and triple sec. The number of margaritas that can be sold is limited to the amount of tequila available. No margaritas can be made exclusively with triple sec. To include triple sec in distilled spirits purchases would be overstating the number of drinks available for sale and, consequently, overstate the audit liability. Also, the pour size of secondary distilled spirits is generally not as consistent as pour sizes of primary distilled spirits.

During examination of the purchase invoices, the auditor should consult with the taxpayer representative about any distilled spirits unfamiliar to the auditor. The trend in recent years of selling a wide variety of liqueurs as primary distilled spirits has made it virtually impossible for even the most experienced mixed beverage auditor to identify all the varieties. A recommended procedure, especially for new mixed beverage auditors, is to make a separate spreadsheet listing any secondary distilled spirits excluded from the calculation of containers available. Also, if an agreement has been reached with the taxpayer on a percentage of a particular type of distilled spirit that is used as a primary, the auditor should footnote this on the purchase exam.

Many auditors have found it beneficial to acquire a bartenders' guide that includes recipes for a large number of drinks. There also are numerous websites on the internet that contain recipes for almost any drink available at bars and restaurants.

In addition to secondary distilled spirits, some purchases of wine and beer should be excluded as taxable from the purchase exam when used as a secondary alcoholic beverage. Dry vermouth and sweet vermouth are wines and are almost always used as a secondary alcoholic beverage in mixed drinks. Vermouth is used as a secondary ingredient in martinis. Sometimes certain types of beer may be mixed with margaritas and considered as a secondary. See verified allowances section for additional information for alcoholic beverages used in cooking.

Analyzing purchases

After scheduling and examining several months of purchase invoices, the auditor should have good information regarding the taxpayer's purchasing patterns. Most bar operations use two or three distilled spirits vendors and two or three beer vendors. If wine sales comprise a substantial percentage of sales, several wine wholesalers may be used. Some indicators of missing purchase invoices may include the following:

1. A large, negative error rate on the depletion analysis.
2. Comparing COGS% (scheduled purchases / reported gross receipts) among the months and noting months with a lower COGS%.
3. The taxpayer usually has weekly purchases during the month, but some months only have 2 or 3 invoices for a particular vendor.
4. Available general ledgers, income statements, or accounts payable journals indicate a higher purchase volume than the actual invoices.
5. Researching TABC stamp numbers on bottles of distilled spirits obtained during the entrance conference and noting different vendors from those contained in the taxpayer's purchase invoices or HB11 data.

If the auditor has reason to doubt the accuracy of the taxpayer's records, verification of the taxpayer's purchase records at the vendors will be necessary. In many cases, when the taxpayer's records are incomplete or no records are available, all the vendors' records should be examined.

Since most bar operations purchase distilled spirits on credit, the auditor should review vendor statements and the taxpayer's purchase invoices for any differences. Any credit entries on the statements should also be noted and the auditor should have scheduled these credit memos as negative amounts on the purchase exam.

If using a six-month sample for purchases, the auditor needs to be aware of large purchases of alcoholic beverages on the last day or two of the individual months that may affect the ABDA. For example, if one month of a six-month sample has such a purchase, is this offset by another month in which the last large purchase was four or five days before the end of the month? If so, then it is probably not necessary to make any changes. However, if a six-month sample contained several months with large purchases on the last day or two of the month, it may be necessary to expand the sample with additional randomly selected months. Analyzing the COGS% for each selected sample month and comparing to the overall COGS% for the population also helps determine whether the sample months are representative.

Services per container

The calculation of services per container is an integral part of the ABDA. The basic calculation is dividing containers available (obtained from purchase data) by the serving size. Different methods are used to obtain the average serving size for each beverage class. The auditor should thoroughly document the calculations of services per container on the spreadsheet and the audit plan. Also, the auditor should explain the calculations to the taxpayer.

Distilled spirits

During the entrance conference, the auditor should interview someone familiar with the day-to-day operations of the bar when discussing pour sizes of mixed drinks. Bar managers and bartenders are usually good sources for this information. The auditor can obtain a reasonably accurate pour amount by implementing some or all of the following procedures:

1. Ask experienced mixed beverage auditors and review prior audits to determine what the normal pour amount is for the particular operation being audited.
2. Obtain any written policies from the taxpayer on pour size.
3. Closely inspect the bar area and note what types of measuring devices are being used by the taxpayer to prepare mixed drinks. *Disclaimer: The following definitions of measuring devices are of a general nature commonly used in bars. Terminology can vary depending on the type of operation and location. Each auditor should verify terminology with the specific taxpayer under audit.*
    a. Jigger – A tool used to measure liquor (distilled spirits). It is a metal or glass container that looks like a shot glass designating a specific measurement. It is typically hour-glass shaped with different measurement sizes on each end. For example, one end may measure 1 ounce and the other measures 1 ½ ounces.
    b. Posi-pour – A portion liquor spout inserted into a liquor (distilled spirit) bottle to control the pour. There is a ball bearing in the spout that cuts off the pour at a set amount. These are usually color-coded to indicate a specific number of pour ounces and most commonly are in a range of 1 to 1 ½ ounces. Different manufacturers will have different colors. Also, if the distilled spirits bottle is not held at a 90-degree angle, or the spout is not clean, the ball will not seal off, and an amount in excess or short of the intended capacity can be poured.
    c. Free pour – To pour free of a measuring device, so the pour size is totally controlled by the bartender. The free pour is usually done to count or sight and is surprisingly accurate when performed by an experienced bartender. If the bartender pours by count, he will have a prescribed count (e.g., 1001, 1002, etc.). If the bartender pours by sight, there will be a certain area of the glass to which the liquid is poured. When testing for free pours, check the pouring spouts on the bottles. Larger or smaller spouts make a difference in the volume poured.
    d. Metered gun – An automatic dispensing metered pour by pushing a button with liquor and mixer.
    e. Liquor monitoring system – a variety of systems set up to standardize the pour in a drink. They include the metered gun which usually dispenses the mix and liquor into a glass including ice. The amount of distilled spirit dispenses is regulated by the calibration of the gun.

These are similar to the soft drink and water dispensing guns located behind bar counters and found in restaurants for fountain style drinks. Generally, they are only used for commonly ordered drinks such as a rum and coke.

f. Wireless metered pour – This is another type of liquor monitoring system that contains a wireless device within the pour spout that transmits the amount of liquor to a monitor that can be viewed in real time. The amount of the pour can also be integrated into the point-of-sale system and into the inventory system for precise monitoring of servings.

4. Ask the bar staff what types of measuring devices are used in the preparation of mixed drinks and how the devices are used. If a bartender uses a jigger, is it poured level, or is it poured to a certain level accompanied by a tail? A tail (or trail) is when the bartender adds an extra amount of distilled spirits to either the jigger or a free-pour.
5. Observe bartenders serving customers while conducting the audit.
6. Ask the taxpayer if the same pour amount and/or measuring devices were used for the entire audit period or if there was a change.
7. Verify whether the pour amount is altered for different types of drinks. Several specialty drinks including Martinis, Manhattans, Rock Drinks, Long Island Iced Teas, Hurricanes, etc. contain multiple primary distilled spirits. For example, a taxpayer may pour 1.25 ounces in a regular highball but will pour 3 – 4 ounces of primary liquor in a Martini. Also, any drinks that are doubles may not consist of 2, 1.25 ounce servings of primary distilled spirits but may consist of 2, 1 ounce servings.
8. Verify the sizes of shot glasses, jiggers, and posi-pours through observation and reviewing available purchase invoices and document in the audit plan.
9. Measure glass sizes by filling a graduated cylinder with water and pouring to the top of the glass. Typically glasses are filled to the brim with ice, so this will limit the amount of liquid that will fit in the glass. If a taxpayer is claiming an unreasonable pour amount based on the glass size, the auditor can verify the claim by filling a graduated cylinder with a set number of ounces of water and pouring into an ice-filled glass.
10. Request different bartenders to demonstrate a pour using 3 – 6 drinks. This may have mixed results due to the bartender being nervous or feeling like he has to pour a certain amount. The auditor should reassure the bartender that the primary goal is to obtain the normal pour amount and not to ensure that the bartender is pouring a specific number of ounces. The following is a suggested procedure:
    a. Fill a 1.0 liter container with 20 ounces of water. This amount will usually provide a good feel to the bartender.
    b. Fill 3-6 glasses with ice using the most commonly used glass size.
    c. Ask the bartender to use the 1.0 liter container of water to pour the drinks.
    d. After the bartender has poured the drinks, measure the remaining ounces of water in the container.
    e. Subtract the remaining ounces of water from the beginning 20 ounces and divide the result by the # of drinks poured. This is the average pour size for distilled spirits.
11. Conduct surveillance (with management approval) either before the taxpayer has been notified of audit (preferred) or after the audit is officially started if the pour amount is a potential contention. If conducted after the entrance conference, a different auditor may need to conduct the surveillance. Also, depending on the type of bar, surveillance may be difficult to conduct and remain undetected.
12. Review the entrance conference questionnaire and compare to the results of the demonstration pour, written policies, observation, and surveillance.

Regardless if the entrance conference questionnaire indicates a fairly reasonable pour amount, the auditor still needs to measure some pours and document in the audit plan. The more information that can be obtained through measuring, observing, and interviewing will result in a more accurate pour.

After using all available resources to obtain an accurate pour amount for distilled spirits, the auditor will add one-tenth (1/10) of an ounce as a pouring allowance. This one-tenth of an ounce is added to the pour amount to make an accommodation for bartender over-pouring, slight spillage, and irregular pours. After converting the container sizes to ounces and dividing by the serving size (pour amount plus one-tenth of an ounce), the result is rounded down to the next whole drink. For example, if regular mixed drinks are poured with 1.25 ounces, the auditor will add one-tenth ounces for a total serving size of 1.35 ounces. A one liter container holds 33.8 ounces. 33.8 ounces / 1.35 ounce serving size = 25.03704 rounded down to 25 services per container. The auditor does not need to make these calculations since Exam 1F of the mixed beverage template contains the necessary formula to automatically calculate services per container once the auditor enters the actual pour amount. The one-tenth pouring allowance is also added automatically for the auditor.

Due to the increasing popularity of multi-liquor drinks, adjustments will generally need to be made to the services per container exam (1F) if the multi-liquor drinks comprise a considerable amount of the taxpayer's business and the pour amount is different from regular mixed drinks. Multi-liquor drinks may contain one or more primary distilled spirits (base liquors) and perhaps one or more secondary distilled spirits. Primary (or base) liquor is a type of distilled spirits that is normally the main liquor in a drink. Examples of primary distilled spirits include whiskey, bourbon, Scotch, rum, tequila, vodka, gin, and some liqueurs. When a taxpayer uses a point-of-sale system that has a product mix report listing the different types of drinks accompanied by the selling price and number of units, the auditor can establish fairly easily the percentage of sales for a particular drink and multiply that percentage by the average pour for the drink to obtain a weighted pour. If a taxpayer uses a point-of-sale system that contains detailed register tapes, the auditor would need to examine several weeks or months of detailed register tapes to establish a percentage of sales for different types of drinks. Other alternatives for obtaining the percentage of sales would be using the number of purchases and/or discussing with the taxpayer. The auditor should thoroughly document the procedure in the exams and the audit plan.

Exam 1F is designed to calculate a weighted average pour and services per container. The auditor is only required to enter the ounces of base distilled spirits poured (column 1) and the percentage of mixed drinks served (column 2), and the formulas in the spreadsheet will calculate the necessary information. The weighted pour in ounces (Column 3) is calculated by multiplying columns 1 and 2. After converting metric distilled spirits containers to ounces, those will be divided by the weighted pour to calculate the services per container. See example below:

DISTILLED SPIRITS:

		1	2	3	
Description		Ounces of base distilled spirits poured	Percentage of Mixed Drinks Served	Weighted Pour - Ounces	
Drink name or category					
Hiball		1.2500	42.00%	0.5250	
Hiball during happy hour		1.0000	10.00%	0.1000	
Rocks		1.5000	10.00%	0.1500	
Doubles		2.0000	5.00%	0.1000	
Long Island Tea		1.5000	5.00%	0.0750	
Martini		0.7500	13.00%	0.0975	
Margarita (non-batch)		1.2500	15.00%	0.1875	
Other		-	0.00%	-	
Weighted Average Pour			100.00%	1.2350	
Audit Pouring Allowance				0.1000	
Weighted Average Pour In Ounces Used To Calculate Services Per Container				**1.3350**	
Services Per Container:	**Equivalent Ounces**	**Services Per Container (SPC)**			
		formula for equivalent oz.			formula for SPC
.750 Liter	**25.36**	=33.81 X .75	**18.00**	*	=25.36 / 1.335 = 18 SPC
Liter	**33.81**	=33.81 X 1	**25.00**	*	=33.81 / 1.335 = 25 SPC
1.75 Liter	**59.17**	=33.81 X 1.75	**44.00**	*	=59.17 / 1.335 = 44 SPC
*** Forwarded to Line 5 of Exam 1B for the applicable container column**					

The auditor may encounter a situation where a certain amount of distilled spirits is poured in regular mixed drinks and a different amount is poured in drinks mixed in tall glasses commonly known as Collins glasses. For example, assume that 1.25 ounces are poured in regular dinks, but 1.50 ounces are poured in a Collins drink. Assume 400 of the 500 drinks noted during the sample weeks used to calculate average prices were regular mixed drinks and 100 were Collins drinks. 80% were regular drinks (400 / 500) and 20% were Collins drinks (100 / 500). The weighted average pour amount would be calculated as (1.25 X 80%) + (1.50 X 20%) = 1.30 ounces.

Weighted Average Pour Based on the PMIX Report

Often, bars have a varied pour depending on the type of drink and the quality of the liquor. For example, well drinks may be 1 1/2 ounce pours, while martinis are 4 ounces, premium drinks are 2 ounces, and shots are 1 ounce. The following is an example of how to do a weighted average pour based on a PMIX report.

Below is an abbreviated PMIX report with notes as to what kind of drink each one is:

Rank	Item number	Item Name	Num Sold	Price Sold	Amount	Cost	Profit	Food Cost %	% Sales	Type
1	11375	Vodka Mar	681	4.5	3,064.50	1.04	3.46	0.23	0.21	Martini
2	11145	Crown Royal	327	6.5	2,125.50	1.51	4.99	0.23	0.15	Call
3	10115	Gin Martini	275	5.5	1,512.50	1.32	4.18	0.24	0.10	Martini
4	11220	Jack Daniels	182	6.5	1,183.00	1.50	5.00	0.23	0.08	Call
5	11225	Jagermeister	203	4.5	913.50	1.11	3.39	0.25	0.06	Call
6	11245	Malibu	127	5.75	730.25	1.39	4.36	0.24	0.05	Call
7	11455	Makers Mark	119	5.75	684.25	1.22	4.53	0.21	0.05	Call
8	11240	Kahlua	117	5.75	672.75	1.28	4.47	0.22	0.05	Call
9	11410	Vodka	107	5	535.00	1.11	3.89	0.22	0.04	Well
10	10060	Bourbon	106	5	530.00	1.11	3.89	0.22	0.04	Well
11	10055	L.I.T.	76	6.75	513.00	1.62	5.13	0.24	0.04	Well
12	11460	Teq Shot	79	6.5	513.50	1.51	4.99	0.23	0.04	Shot
13	10005	HH Vodka Ma	117	4	468.00	1.04	2.96	0.26	0.03	Martini
14	11060	HH Jack Danie	92	4	368.00	1.50	2.50	0.38	0.03	Call
15	11380	HH Crown	97	3.75	363.75	1.51	2.24	0.40	0.03	Call
16	11360	HH Malibu	85	3.75	318.75	1.39	2.36	0.37	0.02	Call
17	11440	Coke	76	0.25	19.00	0.07	0.18	0.28	0.00	
18	11110	Water	74	0	-	-	-	-	-	
		Totals	2940		$ 14,515.25					
		Total Liquor Units	2790		Total liquor units = total units less mixers. In this case, total units - Coke - Water or 2940 - 76 - 74 = 2790.					

Rank: Drinks are listed by the one that sells the most in first rank and so on.

Item Number: A number assigned when the POS system is programmed.

Item Name: The name of the drink.

Num Sold: The total number of each drink sold.

Price Sold: The retail price of each drink with that item number.

Amount: The total retail sold.

Cost: If inventory is kept in the POS system, this will indicate the cost per unit.

Profit: The profit per unit.

Food Cost %: The cost of goods per unit.

% Sales: The percentage of the overall sales that this category makes up. This may be the percentage of all sales including food or it may be the percentage of sales of mixed beverage only. It just depends on how the POS is programmed.

Assume that a behind the bar observation indicates the following:						
Well liquor has a pour of 1.5 ounces.						
Call or premium liquor has a pour of 2 ounces.						
Martinis are 4 ounces.						
Shots are 1 ounce.						
The column "Type" has been added so that the pour for each category can be determined.						
A weighted average pour can be calculated as follows:						
Rank	Item number	Item Name	Num Sold	Per Cent of Total Sales	Pour in Ounces	Weighted Pour
1	11375	Vodka Mar	681	24.41%	4	0.98
2	11145	Crown Royal	327	11.72%	2	0.23
3	10115	Gin Martini	275	9.86%	4	0.39
4	11220	Jack Daniels	182	6.52%	2	0.13
5	11225	Jagermeister	203	7.28%	2	0.15
6	11245	Malibu	127	4.55%	2	0.09
7	11455	Makers Mark	119	4.27%	2	0.09
8	11240	Kahlua	117	4.19%	2	0.08
9	11410	Vodka	107	3.84%	1.5	0.06
10	10060	Bourbon	106	3.80%	1.5	0.06
11	10055	L.I.T.	76	2.72%	1.5	0.04
12	11460	Teq Shot	79	2.83%	1	0.03
13	10005	HH Vodka Ma	117	4.19%	4	0.17
14	11060	HH Jack Danie	92	3.30%	2	0.07
15	11380	HH Crown	97	3.48%	2	0.07
16	11360	HH Malibu	85	3.05%	2	0.06
				Weighted Average Pour		2.69
Note:	Per cent of total sales = Num Sold / Total Liquor Units					
	Weighted pour = Per Cent of Total Sales X Pour in Ounces					
	Weighted average pour = Total of the Weighted Pours					

Frozen drinks (especially margaritas and daiquiris) prepared in dispensing machines are extremely popular. The serving size, amount of distilled spirits pour (tequila or rum) and pricing are often different from regular mixed drinks. For this reason, the primary distilled spirit (tequila or rum) should be scheduled separately, if possible, from the primary distilled spirits used in preparing individually mixed drinks. Usually, bars will use a fairly inexpensive brand of tequila in the batch recipes of frozen drinks. The auditor should request the batch formula during the entrance conference.

In calculating the services per container for primary distilled spirits used in frozen drinks, the only information necessary is the total volume of the batch, the number of ounces of the frozen drink poured in each serving, and the amount of primary (base) distilled spirits used in the batch. A typical dispensing machine can hold 5 gallons. However, when the batch is mixed, it may be less. The auditor should always ask to see the container in which the batch is mixed and the level to which the mix resides in the container after everything has been added. Since the batch must be mixed prior to pouring into the dispensing machine, the auditor cannot rely on the machine size to determine the total batch size. If it is possible to segregate purchases, then frozen drink batches will not contain the .10-ounce allowance for spillage and over-pouring as is given for individually prepared mixed drinks or non-segregated purchases.

Example 1: A batch results in four (4) gallons of frozen margaritas. The recipe consists of four (4) liters of tequila, two (2) liters of triple sec, one container of limeade or fresh lime juice and enough ice to bring the volume to four (4) gallons. Seven (7) ounces of the batch are served in eight-ounce glasses. The average pour would be calculated in the following manner:

Description	Calculation
Total ounces of frozen margaritas	128 ounces per gallon X 4 gallons = 512 ounces
Primary distilled spirits in batch	4L tequila X 33.81 oz. per liter = 135.24 ounces
Total servings available	512 ounces / 7 ounces = 73.14 rounded down to 73
Primary distilled spirits per serving	135.24 oz. / 73 = 1.85 ounces of tequila

Example 2: A batch of frozen margaritas consists of 3 liters tequila, 1 liter triple sec, ½ gallon lime mix, and enough ice to make 3 gallons. 7 ounces of the frozen margarita mix is served in an 8-ounce glass.

Description	Calculation
Total ounces of frozen margaritas	128 ounces per gallon X 3 gallons = 384 ounces
Primary distilled spirits in batch	3L tequila X 33.81 oz. per liter = 101.43 ounces
Total servings available	384 ounces / 7 ounces = 54.86 rounded down to 54
Primary distilled spirits per serving	101.43oz. / 54 = 1.88 ounces of tequila

Below are some additional examples related to distilled spirits:

Example 1: Bartenders pour 1.25 oz. for all mixed drinks. The calculation of the services per container (SPC) for 750 ml, 1 liter, and 1.75 liter containers of distilled spirits would consists of the following:

Container Size	Equivalent Ounces (33.81 ounces per liter)	Services Per Container (SPC) (adjusted for 1/10th oz. pouring allowance)
750ml	33.81 oz. X .75 (750ml/1000ml) = 25.36 oz.	25.36 oz. / (1.25 + .10) = 18.79; rounded down to **18**
1 liter (1000ml)	33.81 oz. X 1 = 33.81 oz.	33.81 oz. / (1.25 + .10) = 25.04; rounded down to **25**
1.75 liter	33.81 oz. X 1.75L = 59.17 oz.	59.17 oz. / (1.25 + .10) = 43.83; rounded down to **43**

Example 2: Bartenders pour 1.25 oz. for all regular mixed drinks. Shots of tequila, schnapps, and various liqueurs contain 1 ounce of distilled spirits. The auditor will need to calculate a weighted average pour and calculate the services per container in the following three (3) steps:

Step 1: Determine the percentage of drinks

In the 20 weeks examined by the auditor to obtain the average selling prices (or using a POS detail report for the entire audit period), the following totals resulted:

# of regular mixed drinks:	24,500	76.92% (24,500 / 31,850)
# of shots:	7,350	23.08% (7,350 / 31,850)
# of total drinks	31,850	100%

Step 2: Determine the weighted average pour

Type of drink	Pour	% of total drinks	Weighted Pour
Regular	1.25 oz.	76.92%	.9615
Shots	1.00 oz.	23.08%	.2308

Type of drink	Pour	% of total drinks	Weighted Pour
Total			1.1923
+ Pour allowance			.10
= Adjusted Pour			**1.29 oz.**

Step 3: Calculate the services per container (SPC)

Container Size	Equivalent Ounces (33.81 ounces per liter)	Services Per Container (SPC) (per 1.29 oz. in step 2)
750ml	33.81 oz. X .75 (750ml/1000ml) = 25.36 oz.	25.36 oz. / 1.29 oz. = 19.66; rounded down to **19**
1 liter (1000ml)	33.81 oz. X 1 = 33.81 oz.	33.81 oz. / 1.29 oz. = 26.21; rounded down to **26**
1.75 liter	33.81 oz. X 1.75L = 59.17 oz.	59.17 oz. / 1.29 oz. = 45.87; rounded down to **45**

Beer

Beer is served from either packages or kegs. Packages would be cans or bottles. Kegs contain draft beer. Either packages or kegs are classified as either domestic (made in the United States) or imported (not made in the United States). Domestic draft beer is most commonly served from kegs. Kegs can be of various sizes but the most common are half barrels containing 15.5 US gallons or 1,984 ounces (15.5 X 128 ounces). Imported draft beer comes in various keg sizes based on a liter measurement. Two common sizes are 30 liter (1,014 oz. = 30L X 33.81 oz. per liter) and 50 liter (1,690 oz. = 50L X 33.81 oz. per liter). Invoices generally will designate the number of liters and some convert the liter measurement to the U.S. gallon measurement.

The table below contains some common keg sizes. *Disclaimer: The common name is in parenthesis but these can have different meanings. The auditor should verify with the taxpayer.*

Conversions:
1 gallon = 128 ounces
1 liter = 33.81 ounces

Name	Volume in Gallons	Volume in Ounces (128 oz. per gal.)
Barrel	31	3,968
½ Barrel (keg)	15.5	1,984
¼ Barrel (pony)	7.75	992
1/6 Barrel (log)	5.17	661.33
50 Liter	13.2	1,690.5
20 Liter	5.28	676.2
30 Liter	7.92	1,014.3
Cornelius Keg	5	640

Since beer has a limited shelf life in a keg or half barrel, it will often come in smaller containers than a half barrel when it has a limited sales volume. While Exam 1D used for entering purchases in the depletion template has columns for ¼ and 1/6 barrels, the auditor has the option of converting all keg sizes to half barrel equivalents. For example, to convert a quarter barrel of beer to a half barrel, divide the number of ounces in the quarter barrel by the number of ounces in a half barrel (using chart above): 992 ounces / 1,984 ounces =

.5 half barrels. If the auditor chooses to make the conversion, the denominator will always be the container size to which the conversion size is being made. For audit trail purposes, the auditor may prefer to use separate columns for the different container sizes. Also, having separate columns for the different container sizes helps the taxpayer verify the containers listed in Exam 1D with purchase information obtained from purchase invoices or supplier information.

Example: Assume the taxpayer has the following beer purchases on invoice number 4444, dated 3/1/2012 in the amount of $3,284. The table below shows how these purchases are converted to half barrels.

Type of Container	Number Purchased	Formula for Conversion	Number of ½ Barrels
1/2 Barrel	30		30.00
1/4 Barrel	10	=10*992/1984	5.00
1/6 Barrel	15	=15*661.33/1984	5.00
50 Liter	5	=5*1690.5/1984	4.26
20 Liter	4	=4*676.2/1984	1.36
30 Liter	12	=12*1014.3/1984	6.13
Cornelius Keg	2	=2*640/1984	.65
			52.40

The auditor would enter the purchase on Exam 1D in the mixed beverage template in the following manner:

				Beer				
Supplier	Invoice	Invoice		Dom.	Imp.	Other	Dom.	Imp.
Code	Date	Number	Beer	24/12 oz.	24/12 oz.	Other	½ BBL	½ BBL
1	3/1/2012	4444	3,284.00				52.40	

The auditor should footnote that “all draft beer container sizes have been converted to one half barrel equivalents”. And, the auditor must footnote how the half barrels were calculated by either using the table above showing the conversion formulas or the following formula: =30+10*992/1984+15*661.33/1984+5*1690.5/1984+676.2/1984+12*1014.3/1984+2*640/1984

If the auditor has decided to convert all keg sizes to half barrels, Exam 1F, will calculate all services per container based on the 1,984 ounces in half barrels.

In addition to determining the keg size, the auditor will also need the size of glasses, mugs, and pitchers in which the draft beer is served. The auditor should use a graduated cylinder filled with water and measure the serving containers to the brim. Bars serving draft beer may offer a variety of glass sizes and/or pitchers.

Exam 1F is designed to calculate an average serving size and services per container. The auditor enters the maximum capacity of the glass size or pitcher (column 1) and the percentage of draft beer served for each glass size or pitcher (column 2), and the formulas in the spreadsheet will calculate the necessary information. The percentage of draft beer served by the various serving sizes will be determined using a POS report containing units served, detailed cash register tapes, or guest service checks. Whenever a POS system is not available, the auditor will most likely generate a time period sample to obtain the # of drinks to calculate the percentages in column 2. The weighted serving in ounces (Column 3) is calculated by multiplying columns 1 and 2. The calculation for services per container for draft beer involves dividing the total ounces of the particular barrel size by the weighted serving size. See example below:

Exam 1F

Draft Beer:				
	1	2	3	
Description	Glass Size-Ounces	Percentage of Draft Beer Served	Weighted Serving - Ounces	
Served By Glass:				
Regular Mug / Glass	12	66.35%	7.9620	
Happy Hour / Promotional Mug / Glass	10	11.65%	1.1650	
"Pint"	16	8.00%	1.2800	
Small Pitcher	48	6.00%	2.8800	
Large Pitcher	60	8.00%	4.8000	
Average Service Size		100.00%	**18.087**	
Services Per Container:	**Equivalent Ounces**	**Services Per Container (SPC)**		formula for SPC
Half Barrel	1984		109	=1984/18.087=109.69

An additional method to calculate services per container is to convert pitchers to an equivalent glass size. However, if this is done, the auditor will also need to convert the pitchers to glass sizes when calculating the average selling price (ASP) on Exam 1H. For example, if converting a 60-ounce pitcher sold at $8.00 into six, 10-ounce services results in the ASP for pitchers being $1.33 ($8.00 / 6 servings). Again, this is more easily done when a taxpayer uses a POS system that can generate the necessary reports verses having only cash register tapes or service checks.

The table below includes some additional examples of calculating services per container based on different glass and barrel sizes:

Ex.	Barrel size	Glass size	Barrel in ounces	Services per container (SPC) rounded down to full serving
1	½	12 oz.	15.5 gal. X 128 oz. per gal. = 1,984 oz.	1,984 / 12 = 165.33 = **165 SPC**
2	½	10 oz.	15.5 gal. X 128 oz. per gal. = 1,984 oz.	1,984 / 10 = 1984.4 = **198 SPC**
3	50L	16 oz.	50L X 33.81 oz. per L = 1,690.5 oz.	1,690.5 / 16 = 105.66 = **105 SPC**

Virtually all draft beer is served with foam, or “head”, so the glasses or pitchers do not contain the full liquid volume of the glass or pitcher. However, to provide an allowance for draft beer spilled or poured out by the bartender due to excessive foam, the services per container is calculated by using the maximum capacity of the glasses or pitchers. Depending on the amount of foam in the glass or pitcher, the allowance ranges will vary but can be substantial with excessive foaming.

Wine and champagne

Wine and champagne are served by the bottle, carafe, or glass. Most of the more expensive wines and champagnes are usually sold exclusively by the bottle which typically contains 750 milliliters (ml). Most of the less expensive wines are sold by 187ml bottles and poured into a glass for serving to the customer. It is common for a bar or restaurant to have certain brands of wine as the house wine which is usually fairly inexpensive. Most house wines are purchased in multi-liter containers and served in glasses or carafes. Some restaurants serving wine by the bottle will allow the customer to take the bottle with any remaining contents after the meal.

Calculating services per container for wine involves dividing the total ounces in the container by the ounces served in each glass or carafe. Unlike distilled spirits and draft beer, no allowance is made for wine by rounding down. The auditor will show the services per container as two decimal places. The auditor should use a graduated cylinder with water to measure the capacity of wine glasses and carafes. And, the auditor should ask the taxpayer for pour sizes of wine and request a demonstration so that the auditor can determine the actual pour size of wine. In establishments serving more expensive wines, there are usually different sized wine glasses for red wines, white wines, and others. The auditor should discuss this with the taxpayer during the entrance conference. Usually, there is a specific level on the wine glass to which the bartender will pour the wine. The auditor can fill a wine glass using water and ask the taxpayer to which level the wine is normally poured. Then, the auditor will use a graduated cylinder to measure the volume of wine poured. The auditor can also request that the taxpayer fill a wine glass with water to the specific level normally poured and measure the contents using a graduated cylinder.

Exam 1F is designed to calculate a weighted average pour and services per container. The auditor enters the maximum capacity of the glass size (column 1), the serving size (column 2) and the percentage of wine served for each wine category (e.g., red, white, champagne) (column 3), and the formulas in the spreadsheet will calculate the necessary information. The percentage of wine served by the various wine categories will be determined using a POS report containing units served, detailed cash register tapes, or guest service checks. Whenever a POS system is not available, the auditor will most likely generate a time period sample to obtain the # of drinks to calculate the percentages in column 2. The weighted serving in ounces (Column 4) is calculated by multiplying columns 2 and 3. The calculation for services per container for wine involves dividing the total ounces of the particular wine bottle by the weighted serving size. See example below:

		Wine		
	1	**2**	**3**	**4**
Description	Glass Size	Per Drink Pour - Ounces	Percentage of Wine Served	Weighted Serving - Ounces
Served By Glass:				
Red Wine	8	5	63.48%	3.1740
White	8	4	27.02%	1.0808
Champagne	6	4	9.50%	0.3800
			100.00%	**4.6348**
Services Per Container:	**Equivalent Ounces**	**Services Per Container**		
		Formula for equivalent ounces		Formula for SPC
.375 Liter	**12.6803**	=33.81 X .375	**2.74**	* =12.6803/4.6348
.500 Liter	**16.9070**	=33.81 X .5	**3.65**	* =16.9070/4.6348
.750 Liter	**25.3605**	=33.81 X .75	**5.47**	* =25.3605 / 4.6348
Liter	**33.8140**	=33.81 X 1	**7.30**	* =33.814 / 4.6348
1.5 Liter	**50.7210**	=33.81 X 1.5	**10.94**	* =50.7210 / 4.6348
3.0 Liter	**101.4421**	=33.81 X 3	**21.89**	* =101.4421 / 4.6348
4.0 Liter	**135.2561**	=33.81 X 4	**29.18**	* =135.2561 / 4.6348
5.0 Liter	**169.0701**	=33.81 X 5	**36.48**	* =169.0701 / 4.6348
18.0 Liter	**608.6524**	=33.81 X 18	**131.32**	* =608.6524 / 4.6348

*** Forwarded to Line 5 of Exam 1B for the applicable container column**

The table below includes some additional examples:

Ex.	Bottle size	Pour	Bottle size in ounces	Services per container (SPC)
1	750 ml	6 oz.	.75 X 33.81 oz. per liter = 25.36 oz.	25.36 / 6 = **4.23 SPC**
2	1.5L	5.5 oz.	1.5 X 33.81 oz. per liter = 50.72 oz.	50.72 / 5.5 = **9.22 SPC**
3	3L	7 oz.	3L X 33.81 oz. per L = 101.43 oz.	101.43 / 7 = **14.49 SPC**

If wine for a given container size is sold both by the glass and the bottle, the auditor may choose to either list the bottle size as a category when calculating the weighted serving size in ounces or convert the bottles to an average glass size. If the auditor chooses to convert the bottles to an average glass size when calculating the SPC, then the auditor must also convert the bottle sales to a glass equivalent when calculating the average selling price (ASP). For example, assume that 750ml of wine are sold by the glass and by the bottle. And, assume that the SPC was based on the average glass size of 6.25 ounces yielding 4.06 services per bottle. Also, assume a 750ml bottle of wine sells for $25.00 per bottle. When calculating the ASP, the auditor must convert every bottle of $25 wine to 4.06 services at $6.16 each ($25 / 4.06).

Another method is to convert all wine served into ounces on the ASP and base the SPC on the number of ounces in a designated container size. See ASP section for example.

Average selling price

The average selling price is calculated by dividing the total value received by the total number of drinks sold. Depending on record availability and completeness, the auditor will calculate the average selling price through using a detail, sample, or estimate. A detailed average selling price would include the sales/service information for every day within the audit period; this is usually limited to those taxpayers with a POS system. A sampled average selling price would include only the sales/service information for the selected sample time periods; this is usually applicable to taxpayers who only have hard-copy records available or are unable to provide a detailed POS printout for the entire audit period. An estimated average selling price would include using the best sales information available. If no sales information is available, the auditor may need to consider using establish a selling priced based on like businesses in the area to calculate the audit adjustment.

While the average selling price (ASP) calculation is fairly simple, the auditor must be aware of how the drink units are derived using taxpayer provided documentation and ensure that the services per container (SPC) calculation is using those same type of units. The auditor has two options on how to handle this as illustrated by the example below.

Example
A POS report or cash register summary shows the following information for the audit period:

Bottle Beer	# Sold	Sales
Domestic	109,690	$288,782.75
Import	16,220	43,195.75
Buckets (6, 12-ounce)	1,455	22,212.00
Total	127,365	$354,190.50

Option 1a: Adjust the buckets to individual, 12-ounce servings by adding 5 additional servings (for a total of 6) to the existing total:

=1,455 X 5 + 127,365 = 134,640 units
ASP = $354,190.50 / 134,640 = $2.63

Option 1b: Adjust the buckets to individual, 12-ounce servings by subtracting the buckets from the total units and multiplying by 6, 12-ounce servings:

=(127,365 - 1,455) + (1,455 X 6) = 134,640 units
ASP = $354,190.50 / 134,640 = $2.63

Option 2: Adjust the SPC and leave the ASP as-is from the taxpayer's report. Calculate a weighted average serving on the SPC exam. Each case of beer contains 24, 12-ounce bottles.

Description	1 Bottle Size – Ounces	2 Percentages of Bottles Served	3 Formula for % of bottles served	4 Weighted Serving-Ounces (Col. 1 X Col. 2)
Domestic/Import	12	98.86%	=125,910/127,365	11.8632
Buckets (6, 12 oz.)	72 (6 X 12)	1.14%	= 1,455/127,365	.8208

The total weighted average serving size equals 12.684 (11.8632 + .8208). To calculate the services per container, divide the 288 equivalent ounces per case of beer (12 ounces X 24 beers) by the 12.684-ounce weighted average serving size to derive 22.706.

The following table shows how the depletion analysis calculates the gross receipts using either option 1 or 2 and how the results are virtually identical:

Description	Option 1	Option 2
Purchases (in cases)	100	100
Services per container (SPC)	24	22.706
Gross services available (Purchases X SPC)	2,400	2,270.6
Average Selling Price (ASP)	$2.63	$2.78
Calculated Gross Receipts (Gross services Available X ASP)	$6,312.00	$6,312.27

If the auditor had used the original totals from the POS report of 127,365 units and $354,190.50 to calculate the ASP of $2.78 and not calculated a weighted average SPC, the calculated gross receipts would have been $6,672 (2,400 X $2.78) and overstated.

When a detailed POS report is not available for the entire audit period and the taxpayer had price changes, the auditor will use a sample or an estimate to calculate a weighted average selling price based on the volume of purchases for each price-change period. If the auditor has a POS report for the entire audit period containing all units and sales, a weighted average selling price calculation would not be necessary The reason for using the purchase volume to establish the weighted average selling price is based on the assumption that alcoholic beverages are sold in the month in which purchased. To establish the purchase volume percentages used in the weighted average selling price calculation, the auditor may either use all purchases from the audit period and segregate by price-change periods, or use a qualifying sample (6 months, 20 weeks, 30 days) for each price-change period or perform an estimate using available, reliable records for each price-change period. Some important reminders when sampling the average selling price component include the following:

1. Bars generally have special pricing structures and specials for different days of the week. And, the selection of types of drinks by customers may vary during the weekdays from the weekends. When a detailed POS report is not available for the entire audit period, the auditor should consider selecting time periods for which reliable sales data is available. Randomly selecting 20 weeks or 6 months is generally preferred than selecting 30 days for the average price calculation because it better represents the taxpayer's normal business cycle. The auditor may select 30 days, but the auditor needs to ensure that the days of the week are proportionate and representative of the taxpayer's normal business cycle. Also, the auditor may have to use less than 20 weeks or 6 months when reliable sales data is not available.
2. At least 250 drinks from each of the three beverage categories should be examined to ensure adequate representation. If the required minimum sample sizes for a time period sample do not yield at least 250 drinks from each category, the auditor should select additional time periods when reliable sales data is available.
3. The auditor should analyze each sample unit selected. Each unit should be compared to other units for proportionality. Each unit should be adequately dispersed throughout the sampled period. For example, if the auditor selects a 20-week sample and discovers that the average prices are significantly different, the auditor may want to select additional weeks or consider segregating time periods based on price changes.
4. If there have been price changes during the audit period, the auditor should select separate time period samples from each price-change period when a detailed POS report is not available for the audit period. Normal minimum sample size requirements (6 months, 20 weeks, 30 days) apply to each price-change period as well as the 250 drinks from each beverage category for each price-change period.

Example 1
A taxpayer had three price changes during a three-year audit period for beer. The auditor selected 3, 20-week samples from each price change period and calculated the following weighted average selling price.

Year	1 **# of Cases of Beer Purchased**	2 **% of Beer Purchased**	3 **Average Selling Price**	4 **Weighted Average Selling Price (2 X 3)**
2009	500	22.22% (500/2,250)	$2.00	.44
2010	750	33.33% (750/2,250)	$2.50	.83
2012	1,000	44.44% (1,000/2,250)	$3.00	$1.33
Total	2,250			**$2.60**

Example 2
A taxpayer had two price changes during a four-year audit period for distilled spirits. The auditor selected 2, 6-month samples from each price change period and calculated the following weighted average selling price.

Price-change period	1 **# of 1 Liter Bottles Purchased**	2 **% of Distilled Spirits Purchased**	3 **Average Selling Price**	4 **Weighted Average Selling Price (2 X 3)**
08/01/2008 – 12/31/2010	1,200	60% (1,200/2,000)	$4.00	$2.40
01/01/2011 – 07/31/2012	800	40% (800/2,000)	$4.50	$1.80
Total	2,000			**$4.20** (2.40 + 1.80)

Example 3
Same as Example 2, but the taxpayer also purchased distilled spirits in 750 milliliter bottles. 65, 750 ml bottles were purchased during the 8/1/08-12/31/10 period and 35, 750 ml bottles were purchased during the 1/1/11-7/31/12 period. These 750 ml bottles should be converted to 1 liter bottles prior to calculating the weighted average selling price.

65 X .75 (750 ml / 1,000 ml or 1L) = 48.75 L
35 X .75 (750 ml / 1,000 ml or 1L) = 26.25 L

Price-change period	1 # of 1 Liter Bottles Purchased	2 % of Distilled Spirits Purchased	3 Average Selling Price	4 Weighted Average Selling Price (2 X 3)
08/01/2008 – 12/31/2010	1,248.75	60% (1,248.75/2,075)	$4.00	$2.40
01/01/2011 – 07/31/2012	826.25	40% (826.25/2,075)	$4.50	$1.80
Total	2,075			**$4.20** (2.40 + 1.80)

As mentioned in the services per container (SPC) section, an additional computation is necessary when dealing with multi-liquor drinks. Instead of adjusting the services per container, the auditor can adjust average selling prices (ASP). For example, assume a regular mixed drink contains 1.25 oz. of primary liquor. A multi-liquor drink contains two, 1.25 oz. servings of distilled spirits and sells for $7.50. If the auditor considers all distilled spirit drinks with a 1.25 oz. pour on the SPC exam, the auditor would modify the ASP exam by considering the multi-liquor drink as 2 drinks, so the ASP would be $3.75 ($7.50 / 2). If 4 ounces of distilled spirits are served in a $9.00 drink, the ASP exam units would be 3.2 units instead of 1 unit (4 ounces / 1.25 ounces) at $2.81 each ($9.00/3.2).

In some situations, it may be advantageous to calculate the sales price based on ounces and convert that amount to the average price for the most common serving. Both draft (keg) beer and wine are served in different sized servings at different prices. Often, draft beer is sold in different sized glasses or pitchers. Wine is often served by the glass, carafe, or bottle. Draft beer and wine generally are less expensive per ounce for the customer when purchased in larger containers.

Example
Assume draft beer is sold in 56-ounce pitchers for $3.50 during promotional periods, or happy hours. The same pitcher is sold for $5.50 at regular prices. Draft beer is also sold in 10-ounce glasses for $1.00 during happy hour and $1.50 at regular prices.

The auditor found the following sales during examination of twenty weeks of source records:

1 Size	2 ASP	3 # of Units	4 Total Ounces (1 X 3)	5 Total Sales (2 X 3)	6 Average Price per ounce (5 / 4)
56-ounce pitchers	$3.50	800	44,800	$2,800.00	
10-ounce glasses	$1.00	3,000	30,000	$3,000.00	
56-ounce pitchers	$5.50	600	33,600	$3,300.00	
10-ounce glasses	$1.50	2,000	20,000	$3,000.00	
Total			128,400	$12,100.00	$.09

If the auditor converts all draft beer to 10-ounce servings, the average price for a 10-ounce serving would be $.99 per serving ($.09 X 10 ounces).

The average price for wine would be calculated using the same method.

If the auditor discovers that cross-ringing has occurred frequently, it may be necessary to calculate one average price for all alcoholic beverages. The auditor with the help of the taxpayer should attempt to make adjustments for this when examining daily source records. However, if cross-ringing was prevalent, and the amounts recorded were for multiple sales of beverages, calculating only one average price may be the only option.

Verified allowances

As mentioned in chapter 8, Rule 3.1001 enumerates several items excluded from the mixed beverage gross receipts tax base and the documentation required to substantiate such claims:

1. Complimentary alcoholic beverages
2. Voluntary gratuities
3. Reasonable mandatory gratuity charges
4. Walked checks or tabs
5. Cover charges, door charges, entry fees, or admission fees that are assumed for entertainment, food specials, and other purposes
6. Bad debts
7. Alcohol loss due to spillage or breakage
8. Alcoholic beverages used in cooking
9. Alcoholic beverages lost through theft (police report required)
10. Alcoholic beverages lost through a disaster (documentation required)
11. Alcoholic beverages lost through cleaning, servicing, or repair of dispensing equipment lines

Two options exist for including verified allowances in the ABDA estimate:

1. Units – Including verified allowances based on units is the preferred option. It provides a more accurate result since it is not affected by varying selling prices. This option depends on having accurate documentation with the number of units. Exam 1G of the mixed beverage template is used to provide credit for verified allowances based on units.
2. Dollars – Including verified allowances based on dollars is the less preferred option. Due to varying selling prices, results will not be as accurate since unit information is not available. Exam 1G of the mixed beverage template is used to provide credit for verified allowances based on dollars.

The auditor may use either of these two options, but cannot use both. For example, if the auditor includes complimentary units on Exam 1G, the dollar amount for those same units cannot be allowed on Exam 1G; otherwise, credit would be allowed twice.

Complimentary alcoholic beverages

No consideration is paid for complimentary alcoholic beverages served. Use tax is due, however, on the taxable ingredients of the complimentary alcoholic beverages.

Rule 3.1001(k)(1)(E) lists several documentation requirements for complimentary drinks:

1. Recorded on service checks only
2. Prepared for each individual or party served
3. Prepared as if it was a normal sale
4. Marked clearly as being complimentary
5. Grouped service checks on daily basis and filed with daily summary showing the number of services, type of service, kind of drink, and normal selling price

If a point of sale system (POS) is used, the system must be able to recreate individual complimentary drink service checks; otherwise, hard copies must be maintained.

Voluntary gratuities

A tip added to the bill at the suggestion of the purchaser or money given freely by the purchaser over and above the price charged for the sale or service of alcoholic beverages.

Reasonable mandatory gratuities

Mandatory gratuity charges that do not exceed 20% are considered reasonable mandatory gratuities. They must meet the following requirements:

1. separated from the sales price of the alcoholic beverage served
2. identified as a tip or gratuity by any reasonable means, including such terms as service fee or service charge
3. disbursed to qualified employees

Any portion of a reasonable mandatory gratuity charge that is retained by the employer is subject to gross receipts tax. Also, any mandatory gratuity charge that exceeds 20% is subject to mixed beverage gross receipts tax regardless of how disbursed.

Walked checks or tabs

An industry term that refers to the instance of a customer that on a particular business day consumes alcoholic beverages and leaves the permittee's premises without paying or providing the appropriate consideration for the alcoholic beverages.

Admission charges

Receipts from cover charges, door charges, entry fees, or admission fees that are assumed for entertainment, food specials, and other purposes are subject to sales tax as provided by §3.298 (relating to amusement services).

Bad debts

These are the unpaid portion of the gross receipts on sales or services that have been charged off the books as a bad debt and that are deducted for federal tax purposes during the same or subsequent reporting period.

Spillage or breakage

Any alcoholic beverages that were lost through breakage or spillage must show the number of containers lost by size, brand, and class or type of drink and size. A written report must be prepared at the time of the loss.

Cooking

Alcoholic beverages used in cooking should be documented by either purchase invoices that have such beverages clearly denoted by either the seller or purchaser or by a separate purchase invoice.

Restaurant operations commonly use some types of wine in cooking. A bottle of wine that has already been opened in the bar area may be used for cooking. Some wine reduction sauces may use a 750 ml. bottle of wine to yield approximately one cup of sauce. The auditor should discuss with the taxpayer the types of wine used in cooking. Sometimes it may be a specific brand, and sometimes it may be what is available at the bar. And, the auditor needs to determine what type of documentation is available to substantiate the cooking wine.

Beer is also used by some restaurants in cooking. If this is a possibility, the taxpayer representative should be consulted regarding any specific brands and available documentation.

Theft

Alcoholic beverages that were lost through theft must be reported to the proper police department and must be substantiated by the report of such police report. The information should show the number of containers lost by size, brand, and class.

Disasters

The taxpayer should provide documentation showing the number of containers lost by size, brand, and class. Any disasters must be reported to the Comptroller.

Line cleaning, servicing, or repairs

Any alcoholic beverages that were lost through the cleaning, servicing, or repair of dispensing equipment lines should be supported by reports prepared by the taxpayer at the time of the malfunction and/or repair/service invoices prepared by the repair/service company. The documentation must show the amount lost by class or type of drink.

Often, kegs of beer are dispensed through a spigot that may be a material distance from the beer cooler in which the kegs are kept. The hoses or lines will need to be cleaned regularly to maintain the flavor and integrity of the beer. Either the taxpayer or the beer distributors will perform this service. Usually, a cleaning solution is introduced into the lines to flush them out. Any beer still in the lines will be lost when performing this service. To allow for this loss, the amount of beer in the line or lines must be calculated. The following information will need to be obtained by the auditor:

1. number of beer lines
2. length and diameter of the lines
3. cleaning frequency (e.g., once per week, once per month, etc.)

The following formula is used to calculate the volume of a draft beer line:

Volume = pi X r (squared) X h X fluid ounces per 1 cubic inch
Pi = 3.141429
r = radius (half of diameter)
h = length of line in inches
fluid ounces per cubic inch = .55411
12 inches = 1 foot

The following chart has the results of the above formula for different sized lines:

Draft Beer Line Cleaning							
Ounces of beer Wasted per Cleaning							
			Inside Diameter of Each Line				
length in feet	1/4 inch	3/8 inch	1/2 inch	5/8 inch	3/4 inch	7/8 inch	1 inch
1	0.326	0.734	1.306	2.040	2.937	3.998	5.222
2	0.653	1.469	2.611	4.080	5.875	7.996	10.444
3	0.979	2.203	3.917	6.120	8.812	11.995	15.666
4	1.306	2.937	5.222	8.160	11.750	15.993	20.888
5	1.632	3.672	6.528	10.199	14.687	19.991	26.111
6	1.958	4.406	7.833	12.239	17.625	23.989	31.333
7	2.285	5.141	9.139	14.279	20.562	27.987	36.555
8	2.611	5.875	10.444	16.319	23.500	31.985	41.777
9	2.937	6.609	11.750	18.359	26.437	35.984	46.999
10	3.264	7.344	13.055	20.399	29.374	39.982	52.221
12	3.917	8.812	15.666	24.479	35.249	47.978	62.665
14	4.569	10.281	18.277	28.558	41.124	55.975	73.110
16	5.222	11.750	20.888	32.638	46.999	63.971	83.554
18	5.875	13.218	23.500	36.718	52.874	71.967	93.998
20	6.528	14.687	26.111	40.798	58.749	79.964	104.442
25	8.160	18.359	32.638	50.997	73.436	99.955	130.553
30	9.791	22.031	39.166	61.197	88.123	119.946	156.664
35	11.423	25.703	45.694	71.396	102.810	139.936	182.774
40	13.055	29.374	52.221	81.596	117.498	159.927	208.885
45	14.687	33.046	58.749	91.795	132.185	179.918	234.995
50	16.319	36.718	65.276	101.995	146.872	199.909	261.106
60	19.583	44.062	78.332	122.393	176.247	239.891	313.327
70	22.847	51.405	91.387	142.792	205.621	279.873	365.548
80	26.111	58.749	104.442	163.191	234.995	319.855	417.770
90	29.374	66.092	117.498	183.590	264.370	359.837	469.991
100	32.638	73.436	130.553	203.989	293.744	399.819	522.212

Example

The taxpayer has 10 kegs with each containing 30 feet of 3/8” diameter lines that are cleaned twice monthly. Using the chart above, the amount of draft of draft beer loss per month would be 440.616 [22.031 (per chart for 30 feet and 3/8” diameter) X 10 kegs X 2 times monthly]

The volume of draft beer lost to line cleaning for each month would be entered on Exam 1G and converted to equivalent units based on the average service size calculated on Exam 1F. The auditor should add a footnote as to how the conversion was made. Assume that Exam 1F calculated an average service per container of 17.5. Using the information from the example above, the number of units lost for draft beer cleaning would be 25.152 (440.616 / 17.5) for the month.

Audited taxable gross receipts

If the auditor discovered additional gross receipts during the reconciliation, these will be added to reported gross receipts for each beverage category to derive audited gross receipts. If there were no adjustments discovered during the reconciliation, then the auditor will use reported gross receipts which will equal audited gross receipts.

Gross error percentage

The gross error percentage is derived by dividing additional taxable gross receipts by audited taxable gross receipts. To calculate additional taxable gross receipts, the auditor subtracts audited or reported gross receipts from the calculated gross receipts derived from the depletion analysis.

Generally, each error factor is analyzed independently for distilled spirits, wine, and beer meaning that a negative error factor in one category will not offset a positive error factor in another category. However, there are two exceptions: cross-reporting and cross-ringing. Cross-reporting occurs, for example, when draft beer is reported along with distilled spirits on the return. Cross-ringing occurs, for example, when distilled spirit sales are incorrectly entered on the beer key or vice versa. Cross-ringing also occurs when software is programmed incorrectly whereby a bartender enters beer sales on the beer key, but the software is placing that in the distilled spirits category. If source records are available, the auditor can make adjustments to correct the cross-ringing. If the cross-ringing occurred frequently, it may be necessary to calculate an overall average price for all categories. If cross ringing occurred in only two categories, the auditor would calculate an overall average price for the two categories affected.

5% allowance

After additional taxable gross receipts have been calculated, this amount should be reduced by 5% by applying a modification factor of 95% to these amounts. The deduction is for pilferage, inventory shrinkage, and errors made in recording complimentary alcoholic beverages. This 5% allowance is for audit purposes only and cannot be used for reporting purposes by a taxpayer under any circumstances.

In the alcoholic beverage depletion analysis, allowances will continue to be given for documented complimentary drinks, breakage and spillage, alcoholic beverages lost due to line cleaning, theft, and alcoholic beverages used in cooking.

In addition, the 5% allowance procedure used for mixed beverage tax audits should also be used in sales tax audits on taverns that sell beer or beer and wine. Also, please note that this allowance is applicable only to audits in which an alcoholic beverage depletion analysis is used to determine additional receipts. It is not used in audits in which additional tax is assessed due to accounting errors, such as the incorrect "backing out" of the 14% mixed beverage from receipts, that would be discovered during the reconciliation of gross receipts.

Adjusted error %

This is the final error percentage after multiplying the gross error percentage by 95% (i.e., after applying the 5% allowance). The adjusted error percentage is multiplied by the audited gross receipts to derive additional taxable receipts.

Description of exams used in ABDA

The following exams are used in the mixed beverage template:

Exam	Description
1	Tax Adjustment Summary
1A	Calculation of additional gross taxable receipts using the depletion plus any adjustments due from the reconciliation
1B	Summary of results from the various components comprising the ABDA with the calculation of the error percentage
1C	Opening inventory (if available)
1D	Purchases from vendors
1E	Closing inventory (if available)
1F	Calculation of services per container for each beverage category
1G	Verified allowances based on units and complimentary drinks at dollar value
1H	Calculation of average selling price
1I	Calculation of any reconciliation adjustments by subtracting reported gross receipts from audited gross receipts
Smp Eval	A sample evaluation based on audited gross receipts entered on Exam 1I if any components are being sampled or estimated.
Comp%	Analysis of complimentary drink percentage to total sales
Cost%	Comparison of cost of goods sold percentage based on audited and computed receipts

Audit Process

The following information is provided for the auditor to have a checklist of overall procedures when conducting a mixed beverage audit. The auditor should review the specific sections of this manual for a more detailed description.

1. Pre-audit research and analysis
   a. Analyze reported receipts for any cross-reporting (e.g., wine reported under beer category).
   b. Analyze cost of goods sold percentage for the different beverage categories.

2. Reconciliation of gross receipts
   a. Adjust for any cross-reporting among categories.
   b. Review for any "backing out" of 14% tax.
   c. Note any additional revenue subject to the gross receipts tax (e.g., mixers).

3. Perform depletion analysis
   a. Compile purchases for audit period or selected sample time periods.
   b. Calculate services per container based on pour amount for distilled spirits and wine and based on glass or pitcher size for draft beer.
   c. Calculate average selling price.
   d. Review the overall materiality of error amounts derived.
   e. If material error is discovered, compile verified allowances information.

Notification

The Notification of Estimation is included in the mixed beverage template and is issued when there is an adjustment resulting from the alcoholic beverage depletion analysis. The auditor will need to ensure that the 2-letter pattern is followed prior to issuing the Notification of Estimation. Refer to the Sampling Manual, Chapter 7. If the taxpayer provides written confirmation to the auditor that records are not available or that all records in the taxpayer's possession have been provided, the auditor will not be required to wait 30 days and/or 14 days. In CATS (Comprehensive Audit Tax System), auditors can add the following statement in the additional paragraph box for the first missing records request:

I acknowledge that some or all of the records listed above for the requested audit period are not available and will not be provided, or that I have provided all records in my possession. I understand that a depletion analysis will be conducted using my alcoholic beverage purchases and any reliable records provided. .

SIGNED: ___________________________________ DATE: MM/DD/YY
Authorized Contact name, Authorized Contact Title

The taxpayer's signature is written confirmation for the auditor to proceed with the audit assignment.

Example of Missing Records Request with signed, acknowledgment statement:

TEXAS COMPTROLLER *of* PUBLIC ACCOUNTS
WWW.WINDOW.STATE.TX.US

September 14, 2012

John Smith, President
123 Main Street
Waco, TX 76710

RE: ABC Inc. – TP# 12345678903
Mixed Beverage Gross Receipts Tax

Dear Mr. Smith:

We have received no response to our previous request for information and access to your records regarding an audit of your Mixed Beverage Gross Receipts Tax account for the period of January 1, 2009 through June 30, 2012.

Below please find a general list of records that will be required to conduct the audit. This list is not meant to be all-inclusive and the actual records required may be extended based upon the nature and complexity of your business as well as any other pertinent factors.

cash register tapes
monthly summaries
purchase invoices
daily summaries
point-of-sale (POS) records

Under Sections 111.004, 111.0041 and 183.054 Texas Tax Code, the Comptroller's office has the legal authority to examine all taxpayer records regardless of how they are stored or maintained. The records to be examined are determined solely by the Comptroller's discretion and judgment.

If records are not provided by October 15, 2012, the audit will be estimated or an administrative subpoena issued.

I acknowledge that some or all of the records listed above for the requested audit period are not available and will not be provided, or that I have provided all records in my possession. I understand that a depletion analysis will be conducted using my alcoholic beverage purchases and any reliable records provided.

SIGNED: *John Smith, President* DATE: *09/15/12*
John Smith, President

If you have any questions concerning this matter, please contact me at 555-555-5555.

Sincerely,

Jane Matthews

Jane Matthews
Auditor

Example of Notification of Estimation:

Comptroller of Public Accounts
State of Texas
Notification of Estimation Procedures for State Tax Audit

Taxpayer Name:	**ABC Inc.**	
Taxpayer Number:	**1-234567890-3**	TABC CLP# MB123456
Type of Tax:	73 – Mixed Beverage Gross Receipts Tax	
Audit Period:	01/01/09 through 06/30/12	
Reporting Category:	Alcoholic Beverage Depletion Analysis	Subcategory:

1. Reason for estimation (including a description of records which the taxpayer failed to provide or did not have in their possession after notification from the auditor by letter or subpoena): This audit includes estimated periods resulting from the depletion analysis performed using the taxpayer's alcoholic beverage purchases. Records requested but not provided may have included the following:
   cash register tapes, sales service checks, cash sales, purchase invoices, daily summaries, complimentary service checks

2. The records to be examined in performing the estimation will include (but not limited to): point-of-sale (POS) reports, HB11 vendor data, vendor summaries
3. List periods (they may or may not be the entire audit period) being estimated:
   01/01/09 through 06/30/12
   The periods listed in number 3, under audit are being estimated based on the best information available to properly account for alcoholic beverage purchases. Since alcoholic beverage purchases were not properly accounted for, and/or adequate records were not maintained/provided, no credits will be allowed based on the estimation procedures used by the Comptroller.
4. Describe procedures taken to perform estimate:
   An alcoholic beverage depletion analysis will be performed. Opening inventory plus alcoholic beverage purchases less closing inventory for each container size for each beverage class will equal containers available. Containers available will be multiplied by services per container to obtain gross services available. Verified allowances based on units will be subtracted from gross services available to equal net services available. The net services available for each beverage class will be multiplied by the average selling price to obtain computed gross receipts. Properly documented complimentary drinks at dollar value and not included with verified allowances based on units will be subtracted from the computed gross receipts per beverage class to obtain computed taxable gross receipts. Audited or reported taxable gross receipts will be subtracted from computed taxable gross receipts to obtain the unadjusted additional taxable gross receipts. The unadjusted additional taxable gross receipts will be divided by audited or reported taxable gross receipts to derive a gross error percentage for each beverage class. The gross error percentage for each beverage class will be multiplied by audited or reported gross receipts to determine additional taxable gross receipts. Additional taxable gross receipts will be multiplied by 95% to provide a 5% audit adjustment allowance. The adjusted additional taxable gross receipts will be multiplied by 14% to calculate the additional gross receipts tax due. The calculated tax due will be further allocated to state and local jurisdictions where applicable.

   Opening and closing inventories will be considered zero if records are unavailable or unreliable. Services per container (SPC) for primary distilled spirits will be based on the container size divided by the sum of the average amount of primary distilled spirits poured into each service plus a one-tenth pouring allowance. The SPC for wine will be based on the container size divided by the average serving size. The SPC for beer will be based on the container size divided by the average serving size. The average pour and/or serving size is based on information obtained from taxpayer personnel, bartender, auditor observation, TABC, and other sources.
   An average selling/service price (ASP) will be calculated for distilled spirits, wine, or combination of these categories. In general, the ASP is calculated by dividing total receipts of alcoholic beverages by the total number of alcoholic beverage units sold or served. The best available source documents or other records will be used for this calculation.

This notification was hand delivered on: 09/17/2012

To: Mr. John Smith President
(Name) (Title)

Sign Here> *Jane Matthews*
Auditor: Jane Matthews

Write-Up

The write-up of a mixed beverage audit is essentially the same as for other taxes. However, there are a few modifications as described below.

Audit Report Paragraphs

The following language should be used for the audit report:

Estimation using depletion analysis

An estimate was completed for Exam 1. Adjustments were made for additional taxable mixed beverage gross receipts which were determined from alcoholic beverage depletion analysis. For specifics, refer to the Notification of Estimation Procedures for State Tax Audit for this exam.

Reconciliation

A detail examination was completed for Exam 1. Adjustments were made for additional taxable mixed beverage gross receipts as determined through a reconciliation of mixed beverage gross receipts.

Penalty and Interest Waiver Worksheet

- "Tax Reported" is a calculation. The sum of the total amount column on the summary of all outlets page of the history multiplied by the tax rate of 14% equals the tax reported.
- For the tax type, include the name of the tax in addition to the tax code (e.g., 73 – Mixed Beverage).

Cover Letter

- Enter "7310" as the Tax Code so that the dba and permit number boxes will be available. If the auditor only enters "73", these boxes will not be added by the Form-General Audit Cover Letter template in Microsoft Word. The dba and permit numbers should match the XISTAT inquiry. List all outlets and permit numbers that were active during the audit period.

Index to Working Papers

The index is included with the mixed beverage template and replaces the index generated from the cover letter template in Word. For mixed beverage audits, the auditor may omit exams from the index that were not used. However, the auditor should not renumber the remaining exams. The auditor may also print all exams including those not used and add a footnote for the particular unused exam such as "documentation was not provided or maintained by the taxpayer."

Exams

- Do not print exams at less than 60%; otherwise, the exams will be virtually illegible once imaged. To accomplish this goal, delete any unnecessary columns and change the printing order to across and down if multiple columns are necessary.
- Most all exams in the template are linked, so ensure that if columns are deleted that the formulas for subsequent exams are correct.

Chapter 7
Special Topics

Beginning and ending operations

Two situations exist that require special consideration in completing an ABDA: beginning and ending operations. First, if a bar began operations during the first month of the audit period and did not have a beginning inventory, there will be a larger purchase volume for the first one or two months of the audit period for the initial stocking of inventory and probably a lower sales volume. In this first situation, the beginning inventory would be zero because it was either a start-up operation and no previous bar operation at this location, or it was a previous bar location but the ending inventory was not sold or transferred to the new owner currently under audit. Second, if a bar ceases operations, the last few months of the audit period will most likely contain smaller purchase and sales volumes. In both of these situations, the availability and reliability of opening and closing inventory records and volume of purchases may affect the final result of the ABDA. In each situation, the auditor needs to analyze the purchase and sales activity for the audit period to identify trends that may affect the ABDA. Other situations may occur causing the bar to be closed for a time period during the audit period for renovations or unforeseen catastrophes.

Beginning operations (opening inventory is zero for the first month of the audit period)

Opening and closing inventories available
If all purchases (either through taxpayer records, vendor records, or HB11 vendor data) are available, and the auditor is detailing the ABDA components for the audit period, and a closing inventory can be obtained (either through records or taxpayer physical inventory taken last day of the audit period), the auditor can include the beginning months of purchases and the other ABDA components in the audit period. If all purchases are available, and the auditor is sampling the ABDA components, and opening and closing inventory figures are available for each period of the audit, the auditor can include the beginning months of purchases and other ABDA components of the audit period as part of the sample selection process.

Opening and closing inventories not available
If all purchases (either through taxpayer records, vendor records, or HB11 vendor data) are available, and the auditor is detailing the ABDA components for the audit period, and a closing inventory cannot be obtained, the auditor should exclude the beginning month or two of purchases and the other ABDA components to avoid

skewing the ABDA calculation of the error percentage. The auditor will use the error percentage derived from the remaining months and apply it to the audited or reported gross receipts for the same months that were excluded from the ABDA components. The auditor will place a footnote on Exam 1 of this procedure and will also include an explanation in the Notification of Estimation regarding this extra step.

If sampling the ABDA components and opening and closing inventories cannot be obtained, the auditor should exclude the first month or two of purchases and the other ABDA components from having a chance of being selected to avoid skewing the ABDA calculation of the error percentage. For example, assume the audit period is January 1, 2009 through December 31, 2012. The taxpayer had no beginning inventory and "stocked" their inventory from January 1, 2009 through February 28, 2009 as is evidenced by the excessive purchases for those months compared to subsequent months during the audit period. When the auditor is setting the criteria for selecting a random sample, the auditor will use the range of March 1, 2009 through December 31, 2012. The auditor will use the error percentage derived from the sample units and apply it to the audited or reported gross receipts for the same months that were excluded from the ABDA components. The auditor will place a footnote on Exam 1 describing this procedure and will also include an explanation in the Notification of Estimation regarding this extra step. Excluding the first month or two of purchases and the other ABDA components and applying the error percentage obtained from the other months to the audited or reported gross receipts of those excluded purchase months provides a more reasonable audit result when using the depletion analysis.

Ending operations

Opening and closing inventories available

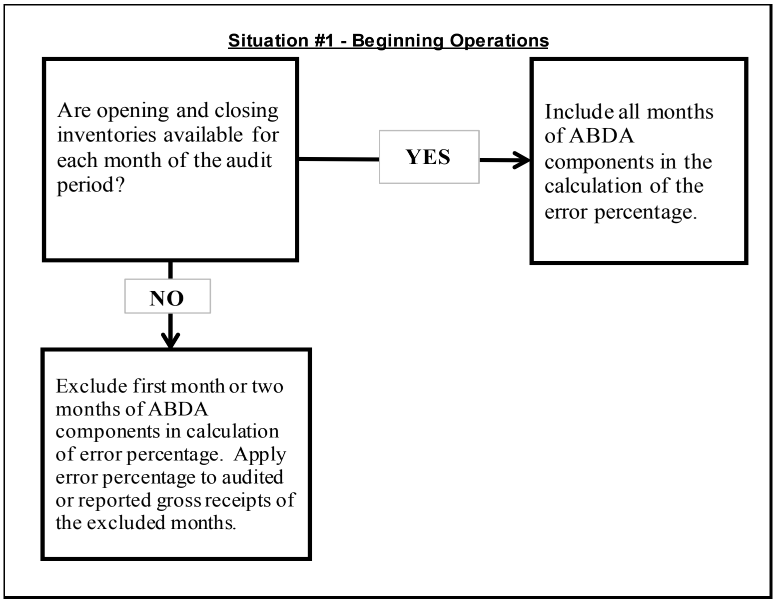
If all purchases (either through taxpayer records, vendor records, or HB11 vendor data) are available, and the auditor is detailing the ABDA components for the audit period, and both opening and closing inventories can be obtained by available and reliable records, the auditor can include the ending months of purchases and the other ABDA components in the audit period. If all purchases are available, and the auditor is sampling the ABDA components, and opening and closing inventory figures are available for each period of the audit, the auditor can include the ending months of purchases and other ABDA components of the audit period as part of the sample selection process.

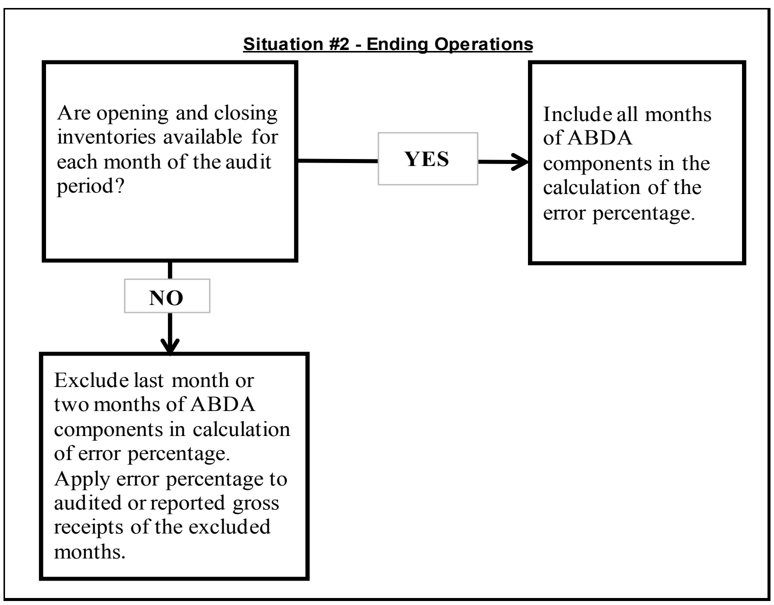
Opening and closing inventories not available

If all purchases (either through taxpayer records, vendor records, or HB11 vendor data) are available, and the auditor is detailing the ABDA components for the audit period, and both opening and closing inventories cannot be obtained, the auditor should exclude the ending month or two of purchases and the other ABDA components to avoid skewing the ABDA calculation of the error percentage. The auditor will use the error percentage derived from the remaining months and apply it to the audited or reported gross receipts for the same months that were excluded from the ABDA components. The auditor will place a footnote on Exam 1 of this procedure and will also include an explanation in the Notification of Estimation regarding this extra step. If sampling the ABDA components and both opening and closing inventories cannot be obtained, the auditor should exclude the last month or two of purchases and the other ABDA components from having a chance of being selected to avoid skewing the ABDA calculation of the error percentage.

For example, assume the audit period is January 1, 2009 through December 31, 2012. The taxpayer ended operations as of December 23, 2012 as was evident by the lower volume of purchases and sales during November and December 2012 compared to previous months during the audit period. When the auditor is setting the criteria for selecting a random sample, the auditor will use the range of January 1, 2009 through October 31, 2012. The auditor will use the error percentage derived from the sample units in the January 1, 2009 through October 31, 2012 timeframe and apply it to the audited or reported gross receipts for November and December 2012. The auditor will place a footnote on Exam 1 describing this procedure and will also include an explanation in the Notification of Estimation regarding this extra step. Excluding the last month or two of purchases and the other ABDA components and applying the error percentage obtained from the other months to the audited or reported gross receipts of those excluded months provides a more reasonable audit result when using the depletion analysis.

The following diagrams summarize the above information:





Reported Amounts of Zero

If the taxpayer reported zero gross receipts for any periods yet purchases of alcoholic beverages occurred during any of those same periods, the auditor will need to estimate gross receipts by performing a separate depletion analysis for these periods.

There is one exception for estimating zero gross receipts. If the taxpayer's reporting for a particular category indicates zeroes throughout the audit period due to the fact that the taxpayer simply does not make a lot of sales for that category, then it is not necessary to estimate gross receipts by performing a separate depletion analysis for these periods. In the situation of low-volume sales for a category, it is possible that the taxpayer may have purchases for a month but no reported receipts for that same month. For example, if the taxpayer has few wine sales, there may be several periods of zero reported receipts for this category even though there may have been wine purchased during the same month. Also, some vendors may have discounted prices for certain alcoholic beverages whereby the taxpayer may purchase a larger volume than usual for a particular time period.

Security Release Audits

Most mixed beverage taxpayers are required to provide the Comptroller a tax security when they receive a permit from TABC and are set up for mixed beverage tax with the Comptroller. Unless there some unusual circumstances, the minimum amounts of security are listed in the table below:

Permit Type	Minimum Security Amount
Mixed Beverage	$7,500
Private Club	$4,500
Private Club Exemption	$3,000

After the taxpayer has been in business for two years, a request may be submitted to the Comptroller to release the security. The request should include the taxpayer number and/or permit number and a general statement requesting release of the security.

When a mixed beverage taxpayer goes out of business by voluntarily canceling the permit, allowing the permit to expire, or having TABC cancel the permit, a security release request may be submitted regardless of how long the taxpayer was in business. If the permit has been placed in voluntary suspense with the TABC, which means the taxpayer could reactivate the permit at a later date, this does not qualify as an out-of-business account, and a security release request will not be considered unless the taxpayer operated for at least two years. For taxpayers that are out of business, a valid mailing address must be provided. Any new phone numbers will also help expedite the processing of the request.

After the Securities and Determinations section in Revenue Accounting receives the request, the account is checked for outstanding liabilities, the number of late returns, collection problems, etc. Some requests are denied at this stage. If no problems exist, a memo is sent to Audit Headquarters. A decision to either release the security or to audit the account is made at Audit Headquarters, or the applicable audit office is contacted to determine if that office wishes to audit the account. If the decision is to release the request, Audit Headquarters informs Revenue Accounting, and a letter is sent to either the taxpayer or the financial institution to release the security. If the decision is to audit the taxpayer, Audit Headquarters notifies Revenue Accounting that an audit will be conducted. Revenue Accounting then sends the taxpayer a letter informing them of the audit.

Audit Headquarters generates the audit as a "Security Release Request" and indicates the due date for processing. Security release audit requests have a 90-day turnaround time. The beginning date is the date that the request is received. The 90-day turnaround is based on the assumption that the taxpayer has all records available and is immediately ready for the auditor to begin the audit. For example, if the auditor does not attempt to contact the taxpayer until a month after Revenue Accounting received the release requested, and the taxpayer is ready for the audit at the time of this contact, then the 90-day "clock" begins at the date that the audit was generated.

If the taxpayer cannot be located, the auditor should estimate the audit liability based on the best information available which will usually be vendor records or HB11 information and using an average selling price obtained from the taxpayer or like businesses in the area. If the taxpayer requests additional time to prepare for the audit, the taxpayer should withdraw the security release request. In this situation, the audit is not canceled *but more time may be allotted to complete it as long as the time frame within the guidelines of AP110. The taxpayer will need to make a subsequent security release request after completion of the audit.*

The most common securities received for mixed beverage accounts are surety bonds, letters of assignment, letters of credit, and cash bonds. The inquiry to check for tax security is MXBOND.TaxpayerNumber. The following table provides a description of the various security types.

Security Type	Description
Surety Bond	These have an effective date and an ending date. All periods within these two dates are covered by the amount of the surety, even if the bond has been canceled. The surety company's canceling of the bond does not relieve them for tax responsibility for the period covered. Also, surety bonds allow the Comptroller to collect the amount of the bond for each calendar year for which it is effective. For example, if a $7,500 bond has an effective date of 06/01/08 and an ending date of 05/31/10, a surety company could be held liable for $22,500 ($7,500 X 3 calendar years). Additionally, if an ending date is show as 12/10/09, the last report period that would be covered by the bond would be October 2009 because the due date of the return would be 11/20/09, which is before the ending date. The November 2009 return, with a due date of 12/20/09, would not be covered. Auditors need to ensure that the audit period encompasses the beginning and ending dates of the surety bond. Also, if an audit is in hearing status, the security will not be released.
Letters of Assignment	This security is a promise by a bank or other financial institution that it will maintain a lien on some form of liquid asset, usually cash or certificates of deposit. An ending date will be shown which determines the last report period covered. The taxpayer that provides a letter of assignment can be audited after this ending date, and any tax deficiency can be collected through reports due before the ending date.
Letters of Credit	This is a guarantee by a bank or other financial institution that it will pay any tax due through a particular ending date. The bank may or may not have a lien on the taxpayer's liquid asset. An audit billing must be made before the ending date in order for the bank to be held liable. The bank has no liability after the ending date.
Cash Bonds	Cash is transferred to the Comptroller and maintained until the taxpayer requests a release.

Caterers

Permits with a caterers' license require more attention especially when they are charging additional fees connected to the sale or service of alcohol. The majority of caterers will be hotels. The easiest place to find out if a taxpayer has this sub license is by going on TABC's website. TABC has a public inquiry search for any taxpayer with a mixed beverage permit. After selecting the public inquiry tab, the auditor can verify the status and other information on license/permit. A caterer will have CB in the subordinate line item. A CB license allows the taxpayer to sell alcohol at a location other than their physical premises where the permit is issued to.

Reviewing the taxpayer's internal controls is extremely important on these audits to verify if the additional fees are being charged which are subject to the mixed beverage gross receipts tax. If the auditor conducts a straight depletion analysis without a review, the additional tax from catering services may go undetected. Taxpayers frequently have a separate invoicing system for these sales that are not included in a typical POS system. They are usually referred to as banquet orders or banquet checks. During the review of internal controls, the auditor should randomly select banquet orders to review for additional charges. Additional charges that are subject to the mixed beverage tax can include bar set-up fees, bartender fees, any portion of reasonable mandatory gratuity charges not disbursed to qualified employees, and mandatory gratuity charges when in excess of 20% regardless of how disbursed. Another potential issue is error tax. Often caterers attempt to pass the tax directly to the customer. Even if the tax is labeled as a TABC reimbursement fee, it is still considered error tax. Taxpayers will argue incorrectly the issue of double taxation. The permittee is the responsible party for paying the tax not the customer.

The average selling price component of the depletion analysis should include the catered events. If catered events are invoiced separately from a POS system then banquet orders should be reviewed to calculate the selling price. The average selling prices of catered events are usually different from the prices of the hotel's restaurant, room service, or minibar. Depending upon the event and volume, some hotels may allow a price discount whereby the average selling prices are lower. Some events will sell alcohol by the bottle or be an open bar. When alcohol is sold by the bottle, the average selling price can be calculated by taking the dollar value of the bottles sold divided by the serving sizes to establish the number of units served. The next step would be to divide the dollar value of the bottles by the units served to calculate the average selling price. If the taxpayer keeps a cup count or tally sheet this is preferred over using the serving size to establish a price.

When there is an open bar, customers are typically charged by the hour or a set price per person attending the event. Again, a cup count or tally sheet can be used to calculate the average selling price. Another alternative is for the taxpayer to take a beginning and ending inventory. By utilizing a beginning and ending inventory the taxpayer knows how much alcohol was consumed during the event. The inventory consumed during the event divided by the serving sizes arrives at the number of units served. Then the taxpayer would be able to calculate an average by dividing the open bar dollar amount by units served.

If a taxpayer does not maintain either of these methods for documentation then prices may have to be estimated or only be representative of POS sales. When this documentation is not available, the average selling price will generally be higher than it should be.

Country Clubs

A country club and caterer both share the same potential tax exposure to miscellaneous charges connected to the service of alcohol. Most country clubs are permitted as a private club. A private club will have an N TABC permit which allows the taxpayer to serve alcohol to its members and guests. When a taxpayer holds this permit the members are considered the owners of the alcohol. The member is paying for the service of alcoholic beverages. As a result the distilled spirits pour is often higher in order to keep membership happy. Whenever in doubt regarding the pour size, it is important to keep in mind the audited cost of goods sold. A country club typically has a higher cost of goods sold than a regular bar with a MB permit.

Like a caterer, a country club can service large banquet events such as a wedding, charity event, or tournament. The same attention should be shown to review the taxpayer's internal controls and potential separate invoicing system. Again, it is important to verify these events are included as part of the average selling price. Since the services are similar to what a caterer could provide the same miscellaneous charges can be found on these audits. Any reasonable mandatory gratuities should be checked to verify the entire amount is disbursed to qualified employees. If a portion of the gratuity is not disbursed to qualified employees then that amount is also subject to tax.

Recently some country clubs have started to offer private storage of a member's own alcohol. A member would be allowed to purchase bottles of wine from the country club and store onsite. In this situation the member would pay a monthly locker or storage fee. If a member participating in this service requested a glass or bottle of wine from their inventory the country club might also charge a corkage fee. The corkage fee is for opening and serving of the wine. In this type of transaction the initial purchase of alcohol, monthly storage fee, and corkage fee would all be subject to tax. These additional fees might go undetected if an auditor does not verify internal controls. Simply conducting a depletion analysis will not uncover if a taxpayer is reporting these fees as they are required.

Chapter 8
Appendix

Entrance Conference Management/Employee Questionnaire

ENTRANCE CONFERENCE

MANAGEMENT/EMPLOYEE QUESTIONNAIRE

The taxpayer's designated representative(s) should be interviewed at the entrance conference. All of the suggested interview questions will not be applicable for every audit. If a subsequent independent interview is held with an employee, note that fact and the answers given by the employee in the space below the appropriate question.

Changes in management since the permit was issued, or since the last audit:

Any suspected theft of receipts or inventory of past management or employees:

Days open during the week and operating hours:

Method used to dispense liquor for mixed drinks and amount of pourage:

free pour ________oz. Jigger or shot glass ________oz.   metered dispenser ________oz.

Estimated number of drinks per liter, 750 ml, etc.:

Premix dispenser (margarita, bloody mary, etc.) in use? If so, give batch mix formula:

Wine serving sizes (glass, carafe) or any sales of bottles of wine, champagne, etc.:

List the names of all Beer, Liquor & Wine Vendors:

Draft beer serving sizes:

glass or mug   oz.

pitcher   oz.

Prices:	**Beginning of audit**	**New price @**	**New price @**
Liquor:			
Bar brands			
Call brands			
Premium call			
Multiple liquors			
Liqueurs			
Margarita			
Other Mixed Drinks			
Beer:			
Domestic can or bottle			
Imported can or bottle			
Draft glass or mug			
Draft pitcher			
Other			
Wine:			
Glass:			
Carafe:			
Bottle:			

NOTE: If there were no price changes during the audit period, the taxpayer representative should sign here.

____ Title: ________________________________

Promotional periods (happy hours):

Days of week:

Hours during business day:

Reduced prices for liquor:	Bar Call Frozen Multi liquor
Reduced prices for wine:	
Reduced prices for beer:	Cans Pitchers Draft

Estimated % of business during promotional period:

Cover or admission charges:

Days of the Week:

Hours during business day:

Entertainment, food, etc: live music, disc jockey/dance floor, buffet, dancers:

Method of collection of door charges and method of recording door charge receipts:

Any days when live band provides own personnel to collect and retain all door receipts:

Does ownership have knowledge of the amount of door receipts in the above situation?

Are minors subject to the same door charge as adults?

Are there any written contracts with live music groups that designate the groups' fees?

Who is responsible for determining the total door charges?

Where are the door receipts stored at the end of the business day?

Are door receipts deposited with alcoholic beverage receipts?

Receipts Documentation:

Method of recording receipts:

How many computers or registers are in use at the business?

Who initially records the receipts?

If there is more than one shift during the business day, are cash counts and cash reconciliations performed at the end of each shift?

Who is responsible for clearing the computer or register at the end of the business day? Who prepares the daily summaries?

Who prepares the mixed beverage tax return?

Are financial statements prepared, and if so, how often and by whom?

Are receipts charged on credit cards recorded at the time of service of the beverages?

Are personal checks accepted?

How many bank accounts does the business maintain?

Are the entire receipts deposited each day?

Who is responsible for the receipts at the end of the business day?

Who prepares the deposits?

Are employees always paid by check?

Are gratuities charged for food or drinks or both?

Are receipts from gratuities dispersed to employees? If so, what percentage does the business retain, if any?

Who decides when an amount owed to the club should be considered a bad debt?

Have bad debts been claimed on federal income tax returns?

Inventory Control:

Who sets liquor pourage policy?

Are there any internal control policies for determining if bartenders are following the pourage policy?

Are physical inventories of alcoholic beverages on hand taken? If so, how often?

Are records of these inventories retained in the club's records?

Who performs the inventory counts and at what time of the business day?

Are any type of analyses performed to reconcile the volume of alcoholic beverages dispensed with receipts? If so, who does this and how often?

Has there ever been a theft of alcoholic beverages at the club?

How is alcohol lost to breakage or spillage documented?

Is any alcoholic beverage used in cooking? If so, how is it documented?

How often is liquor, wine and beer purchased?

Who is responsible for receiving the liquor, wine and beer when it is delivered?

Are there any cash payments for alcoholic beverage purchases?

Who determines when complimentary drinks are given to customers?

How are these complimentary drinks recorded?

Do bartenders or waitpersons have the authority to serve complimentary drinks?

Are employees, including managers, allowed to drink before, during or after their shifts? If so, how many free or discounted drinks are they allowed?

If live musical groups or other entertainers perform at the club, are members ever given complimentary drinks?

Who is responsible for mutilating the TABC on-premise stamps on empty bottles?

History of the Texas Alcoholic Beverage Commission and Mixed Beverage Gross Receipts Tax

PROHIBITION
In 1918, the Texas Legislature ratified the 18th Amendment to the United States Constitution and immediately passed new state laws, thus beginning the "Grand Experiment" of prohibition.

In 1933, Congress amended the Volstead Act (known as the National Prohibition Act) to permit the sale of beer; and in August 1933, the voters in Texas adopted an amendment to the State Constitution legalizing the sale of beer. The 21st Amendment to the United States Constitution, which repealed the 18th Amendment, became effective December 15, 1933. The 44th Legislature then submitted an amendment to the voters repealing state prohibition, and the voters ratified it in August 1935.

THE BIRTH OF THE TABC
In a special called session of the 44th Legislature, The Texas Liquor Control Act was adopted and the Texas Liquor Control Board was created. The name of the agency was changed in 1970 to the Texas Alcoholic Beverage Commission ("TABC"), and when the "Liquor Act" was re-codified in 1977, it was codified into the Texas Alcoholic Beverage Code.

LIQUOR BY THE DRINK
After several attempts, the Texas Legislature responded in 1971 to a public referendum by creating a mixed beverage permit that allowed sales of liquor by the drink in those areas specifically authorized by local option election. With the new permit came the mixed beverage gross receipts tax: a tax at the rate of 10 percent imposed on the gross receipts of a permit holder from the sale, preparation, or service of mixed beverages or from the sale, preparation, or service of ice or nonalcoholic beverages that are sold, prepared, or served for the purpose of being mixed with alcoholic beverages and consumed on the premises of the permit holder.

The new permit met with immediate acceptance, and the new tax quickly became a major revenue generator for the state. In 1985, the tax rate was increased to 12 percent; it was increased again in 1989 to 14 percent. For fiscal year 1993, gross receipts tax and penalty collections amounted to $244.7 million, more than half of the total revenue collected by the agency.

HOUSE BILL 1445 OF THE 73RD LEGISLATURE
Sunset Review - House Bill 1445 of the 73rd Legislature, 1993, enacted recommendations of the sunset review process regarding the commission. The legislature's action granted the Texas Alcoholic Beverage Commission another twelve years of continued operations before another sunset review with two significant functional changes:

> Effective January 1, 1994, responsibility for the collection and verification of the mixed beverage gross receipts tax was transferred to the Office of the Comptroller of Public Accounts.
>
> Effective April 1, 1994, responsibility for the enforcement of the Bingo Enabling Act was transferred to the Texas Lottery Commission. The Alcoholic Beverage Commission had assumed short-term responsibility for the regulation of bingo from the Office of the Comptroller of Public Accounts in January 1990.

SIGNIFICANT (GROSS RECEIPTS) TIME LINES
1836 The first taxes on distilled spirits and malt beverages in Texas were enacted as import duties to finance the fledgling republic. This duty amounted to 45% of value and made no distinction as to proof or type.

1920 Congress passed a joint resolution proposing nation-wide constitutional prohibition on December 19, 1917. It became effective January 16, 1920, one year after ratification, and there followed 13 years of the so-called "Great Experiment" in American government.

1933 With ratification by the 36th state on December 3, 1933, the 21st Amendment to the U.S. Constitution repealed national prohibition imposed by the 18th Amendment.

1935 The Texas Legislature, meeting in special session, enacted the Texas Liquor Control Act that created the Texas Liquor Control Board on November 16, 1935 (House Bill 77, Second Called Session of the 44th Legislature). Regulation of the manufacture and sale of beer was transferred from the State Treasurer to the Board. To make a distinction between the distilled spirits and beer business "permits" rather than "licenses" were provided for the manufacture, sale and distribution of distilled spirits. Because the "open saloon" had been universally condemned and was prohibited under the constitutional amendment repealing state prohibition, that term was defined as a place of business where distilled intoxicants were sold by the drink or in broken or unsealed packages for consumption on the premises.

1961 With the advent of Private Club Registration Permits beginning in 1961, auditing responsibilities increased. Investigation and examination of records of private clubs were initiated. These investigations consisted of a thorough examination of all records of the club, the fees collected for pool systems of alcoholic beverages, and the bona fide membership on which the permit fees were based

1970 The Liquor Control Board became the Texas Alcoholic Beverage Commission due to the passage of House Bill 379, 61st Legislature, Regular Session, 1969. A considerable portion of the Auditing Division's responsibility was altered during the fiscal year as a result of SB 27 as passed by the 61st Legislature. This legislation eliminated tax stamps as the method of collecting taxes on distilled spirits and wine, and enacted a reporting system as the method of collections. Additional personnel were authorized which were employed and trained for field auditing to verify that proper taxes and fees have been paid to the State and to collect additional taxes and fees due. The Second Called Session of the 61st Legislature, HB 4, imposed a special private club service fee in the amount of five cents ($0.05) for each individual serving of an alcoholic beverage by holders of Private Club Registration Permits and Airline Beverage Permits, which generated $3,467,519.87.

1971 SB 346, 62nd Legislature, Regular Session authorized effective June 1, 1971, the sale and consumption of all alcoholic beverages on the premises of mixed beverage permits. In addition, HB 3, 62nd first called Session, imposed a 10% gross receipts tax on the sale or service of all alcoholic beverages by private clubs and mixed beverage permits. The 10% gross receipts tax became effective June 9, 1971, upon passage of the constitutional amendment. The $0.05 service fee collected by private clubs was repealed effective June 8, 1971. Enactment of liquor-by-the drink allowed the sale of mixed beverages. Until this time, the "open saloon" was prohibited by the state constitution. As the result of the repeal of the constitutional provision prohibiting open saloons and subsequent action by the Texas Legislature, 46 Texas counties were eligible to vote in a special election held on May 18, 1971, on the issue of the sale of mixed beverages. The vote in all 46 counties was in favor of the sale of mixed beverages.

1972 The 62nd Legislature, First Called Session, enacted HB 3 which authorized the refund to counties and incorporated cities or towns of 15% of the total gross receipts taxes collected in the particular political subdivision. Reports were furnished to the State Comptroller's Office on collections and disbursements.

1984 The gross receipts tax was increased to 12% of gross receipts effective October 2, 1984.

1991 The gross receipts tax was increased to 14% of gross receipts effective September 1, 1991

1994 Sunset Review House Bill 1445 of the 73rd Legislature, 1993 became effective January 1, 1994, transferring the Mixed Beverage Tax Clearance Fund 068 and the gross receipts tax auditing and tax collection functions to the Comptroller of Public Accounts. The transfer of these functions resulted in a reduction in force with 109 auditors being laid off. The Auditing Division was reduced to 24 auditors. These numbers would grow, but it would never be the size it was in 1993. In 1994, the Auditing Division was renamed the Compliance Division. On August 1, 1994, the Commission reorganization designated the Auditing Division as the Compliance Department, part of the new Licensing and Compliance Division. The reorganization resulted in the Compliance Department assuming numerous new duties, including the ports of entry and server training section and many non-law enforcement duties from the Enforcement Division.

TABC AUTHORITY & DUTIES

Under the Alcoholic Beverage Code, the TABC "shall inspect, supervise and regulate every phase of the business of manufacturing, importing, exporting, transporting, storing, selling, advertising, labeling and distributing alcoholic beverages, and the possession of alcoholic beverages for the purpose of sale or otherwise." The code is an exercise of the police power of the state for the protection of the welfare, health, peace, temperance and safety of the people of the state. It shall be liberally construed to accomplish this purpose.

The Texas Alcoholic Beverage Code was enacted to protect against involvement of the criminal element in alcoholic beverage trafficking. The legislature has very strictly prohibited persons who have been convicted of certain crimes from obtaining licenses or permits. Also prohibited are "tied house" violations where ownership overlaps the three marketing levels (manufacturing, wholesaling and retailing) in the beverage alcohol industry.

TABC ORGANIZATION

Like the Comptroller of Public Accounts, the primary functions of the TABC are split among several divisions. The three primary divisions that interface with Comptroller consist of the following:

Enforcement Division

The Enforcement Division, the agency's largest and most visible division, enforces the Alcoholic Beverage Code and other laws of the state. Commissioned peace officers conduct investigations involving minors in possession, public intoxication, bootlegging, prostitution, gambling, narcotics, weapons, and organized criminal activities. Enforcement agents also provide regular instruction to school children, licensees and their employees, and to members of civic groups, to promote a better understanding of the law and encourage voluntary compliance.

Licensing Division

Regulatory control of the alcoholic beverage industry is established through the process of issuing more than 60 different types of licenses and permits. Each year, the Licensing Division issues approximately 100,000 licenses and permits throughout the world. An individual must hold the proper license or permit to be able to operate in the alcoholic beverage business.

Compliance Division

The Compliance Division ensures the proper amount of taxes and fees have been reported and paid by licensees and permittees. They perform compliance audits, process and verify excise tax reports and oversee compliance with financial requirements of the Alcoholic Beverage Code. They also oversee product testing and label approval of alcoholic beverages.

Definitions and Abbreviations

Definitions:

Various terms are unique to the industry to which mixed beverage tax applies. The table below includes definitions per the Texas Alcoholic Beverage Code (ABC), Tax Code, and rules as well as common definitions. A disclaimer is necessary for the definitions with a "common" source since these are terms commonly used in the industry but may vary depending on the type of operation and location; each auditor should verify terminology with the specific taxpayer under audit.

Term	Definition	Source
Alcoholic beverage	alcohol, or any beverage containing more than one-half of one percent of alcohol by volume, which is capable of use for beverage purposes, either alone or when diluted	ABC 1.04(1)
Ale or malt liquor	a malt beverage containing more than four percent of alcohol by weight	ABC 1.04(12)
Barrel	as a standard of measure, a quantity of beer equal to 31 standard gallons	ABC 1.04(14)
Beer	a malt beverage containing one-half of one percent or more of alcohol by volume and not more than four percent of alcohol by weight, and does not include a beverage designated by label or otherwise by a name other than beer	ABC 1.04(15)
Brandy	an alcoholic distillate from the fermented juice, mash, or wine of fruit, or from the residue thereof, produced at less than 190 proof in such manner that the distillate possesses the taste, aroma, and characteristics generally attributed to the product, and bottled at not less than 80 proof	Common
Cognac	grape brandy distilled in the Cognac Region of France, which is entitled to be so designated by the laws and regulations of the French government	Common
Complimentary	an alcoholic beverage served without any consideration paid to the permittee	Rule 3.1001
Cordials/liqueurs	products obtained by mixing or redistilling distilled spirits with or over fruits, flowers, plants, or pure juices therefrom, or other natural flavoring materials, or with extracts derived from infusions, percolations, or maceration of such materials, and containing sugar, dextrose, or levulose, or a combination thereof, in an amount not less than 2-1/2% by weight of the finished product	Common
Distilled spirits	alcohol, spirits of wine, whiskey, rum, brandy, gin, or any liquor produced in whole or in part by the process of distillation, including all dilutions or mixtures of them, and includes spirit coolers that may have an alcoholic content as low as four percent alcohol by volume and that contain plain, sparkling, or carbonated water and may also contain one or more natural or artificial blending or flavoring ingredients	ABC 1.04(3)
Keg	Original bulk container used primarily for beer and malt liquor. The most common domestic container sizes are half barrels (15.5 gallons) and quarter barrels (sometimes referred to as a "pony kegs" with 7.75 gallons). Common imported beer and malt liquor container sizes are fifty, thirty, and twenty liters	Common
Licensed premises	the grounds and all buildings, vehicles, and appurtenances pertaining to the grounds, including any adjacent premises if they are directly or indirectly under the control of the same person. An applicant for a permit or license may designate a portion of the grounds, buildings, vehicles, and appurtenances to be excluded from the licensed premises.	ABC 11.49 (a) & (b)(1)
Licensee	a person who is the holder of a license provided in this code, or any agent, servant, or employee of that person	ABC 1.04(16)
Liquor	any alcoholic beverage containing alcohol in excess of four percent by weight, unless otherwise indicated. Proof that an alcoholic beverage is alcohol, spirits of wine, whiskey, liquor, wine, brandy, gin, rum, ale, malt liquor, tequila, mescal, habanero, or barreteago, is prima facie evidence that it is liquor	ABC 1.04(5)

Term	Definition	Source
Locker system	One of two methods in which a private club registration permittee may store and/or purchase alcoholic beverages (see also "Pool System"). The locker system of storage is a system whereby the club rents a locker to a member in which he may store alcoholic beverages for consumption by himself and his guests. All alcoholic beverages stored at a club under the locker system must be purchased and owned by the member individually	ABC 32.05
Malt beverage	A beverage made by the alcoholic fermentation of an infusion or decoction, or combination of both, in potable brewing water, of malted barley with hops, or their parts, or their products, and with or without other malted cereals, and with or without the addition of unmalted or prepared cereals, other carbohydrates or products prepared therefrom, and with or without the addition of carbon dioxide, and with or without other wholesome products suitable for human consumption	Common
Manufacturer	a person engaged in the manufacture or brewing of beer, whether located inside or outside the state	ABC 1.04(17)
Minibar	a closed container in a hotel guestroom with access to the interior of the container restricted by a locking device which requires the use of a key, magnetic card, or similar device	ABC 1.04(21)
Mixed beverage	one or more servings of a beverage composed in whole or part of an alcoholic beverage in a sealed or unsealed container of any legal size for consumption on the premises where served or sold by the holder of a mixed beverage permit, the holder of a daily temporary mixed beverage permit, the holder of a caterer's permit, the holder of a mixed beverage late hours permit, the holder of a private club registration permit, or the holder of a private club late hours permit	ABC 1.04(13)
Mixed beverage gross receipts tax	A tax at the rate of 14% imposed on the gross receipts of a permittee received from the sale, preparation, or service of alcoholic beverages or from the sale, preparation, or service of ice or nonalcoholic beverages that are sold, prepared, or served for the purpose of being mixed with an alcoholic beverage and consumed on the premises of the permittee	Rule 3.1001
Original package	as applied to beer, means a container holding beer in bulk, or any box, crate, carton, or other device used in packing beer that is contained in bottles or other containers	ABC 1.04(18)
Permittee	a person who is the holder of a permit provided for in this code, or an agent, servant, or employee of that person; a mixed beverage permittee, a private club registration permittee, a private club exemption certificate permittee, a private club late hours permittee, a daily temporary private club permittee, a private club registration permittee holding a food and beverage certificate, a daily temporary mixed beverage permittee, a mixed beverage late hours permittee, a mixed beverage permittee holding a food and beverage certificate, or a caterer permittee.	ABC 1.04(11) Tax Code 183.001(b)(1)
Pool system	One of two methods in which a private club registration permittee may store and/or purchase alcoholic beverages (see also "Locker System"). The pool system of storage may be used in any area. Under this system all members of a pool participate equally in the original purchase of all alcoholic beverages. The replacement of all alcoholic beverages shall be paid for either by money assessed equally from each member and collected in advance or by the establishment of an alcoholic beverages replacement account in which a designated percentage of each charge for the service of alcoholic beverages, as determined by the club's governing body, is deposited	ABC 32.06(a)
Point-of-Sale system (POS)	A computerized electronic system of hardware and software that is able to print guest checks, print\send orders to kitchens\bars for preparation, process credit cards and other payment cards, create source documents and run detail and summary reports by date or period.	Common

Term	Definition	Source
Proof	The measure of alcohol content in which one degree of proof represents one-half of one percent by volume of ethyl alcohol having a specific gravity of 0.7939 at 60º F. referred to water at 60º F. as unity, or the alcoholic equivalent thereof. (In more generic terms, an 80 proof distilled spirit contains 40% alcohol).	Common
Sale or service	Taxpayers/permittees holding MB or RM permits "sell" mixed drinks to customers. Private clubs cannot and do not sell mixed drinks but instead assess a service charge to their members and guests. The term "sale" may be used in this manual to denote the sale or service of a mixed drink.	Common
Spirit cooler	See distilled spirits	Common
Whiskey	an alcoholic distillate from a fermented mash of grain produced at less than 190 proof in such manner that the distillate possesses the taste, aroma, and characteristics generally attributed to whiskey, stored in oak containers (except that corn whiskey need not be so stored), and bottled at not less than 80 proof, and also includes mixtures of such distillates for which no specific standards of identity are prescribed	Common
Wine and vinous liquor	the product obtained from the alcoholic fermentation of juice of sound ripe grapes, fruits, berries, or honey, and includes wine coolers	ABC 1.04(7)
Wine cooler	an alcoholic beverage consisting of vinous liquor plus plain, sparkling, or carbonated water and which may also contain one or more natural or artificial blending or flavoring ingredients. A wine cooler may have an alcohol content as low as one-half of one percent by volume	ABC 1.04(24)

Abbreviations:

Abbreviation	Description
ABC	Texas Alcoholic Beverage Code
ABDA	Alcoholic Beverage Depletion Analysis
AWM	Agency Work Manager
CICS	Customer Information Control System used as the primary production database containing taxpayer and tax-related information
CLP	Class License Permit
Comptroller (CPA)	Texas Comptroller of Public Accounts
Code	Texas Alcoholic Beverage Code (ABC)
COGS %	Cost of goods sold percentage
Comps	Complimentary alcoholic beverages
MB tax or MBGRT	Mixed Beverage Gross Receipts Tax
Permittee	used interchangeably with "taxpayer" and refer to the entity or individual to which a TABC permit and/or a Comptroller of Public Accounts tax identification (ID) number is issued
POS	Point-of-sale computerized cash register system
STAR	State Tax Automated Research system
TABC	Texas Alcoholic Beverage Commission
Taxpayer (TP)	used interchangeably with "permittee" and refers to the entity or individual to which a TABC permit and/or a Comptroller of Public Accounts tax identification (ID) number is issued. A taxpayer may hold more than one TABC permit or license.

TABC CLP abbreviations:

Gross Receipts

MB	Mixed Beverage
RM	Mixed Beverage with a Food & Beverage Certificate
N	Private Club Registration Permit
NB	Private Club Registration Beer and Wine Permit
NE	Private Club Exemption Certificate Permit

Auxiliary Gross Receipts Permits (sub-licenses)

PE	Beverage Cartage Permit
CB	Caterer’s Permit
MI	Minibar Permit.
LB	Mixed Beverage Late Hours Permit
NL	Private Club Late Hours Permit
FB	Food and Beverage Certificate

Supplier/Vendor

BB	General Distributor’s License
BC	Branch Distributor’s License
BD	Local Distributor’s License
G	Winery Permit
P	Package Store Permit
LP	Local Distributors Permit
W	Wholesaler’s Permit
X	General Class B Wholesaler’s Permit
LX	Local Class B Wholesaler’s Permit
B	Brewer’s Permit
BA	Manufacturer’s License

Licenses and Permits

TABC Permits Subject to the Mixed Beverage Gross Receipts Tax (MBGRT)

The TABC issues almost seventy different licenses and permits regulating all phases of the alcoholic beverage industry. Of this number, only the below five permits are subject to the fourteen percent MBGRT administered by the Comptroller

(MB) Mixed Beverage Permit
(RM) Mixed Beverage Permit with a Food & Beverage Certificate
(N) Private Club Registration Permit
(NB) Private Club Registration Beer and Wine Permit
(NE) Private Club Exemption Certificate Permit

These five permits fall into two distinct categories, public and private. The Mixed Beverage Permit (MB) and Mixed Beverage Permit with a Food & Beverage Certificate (RM) are "public" and allow the sale of alcoholic beverages for on-premise consumption to the general public. A more precise definition paraphrased from ABC Sec. 28.01 consist of the following: A mixed beverage permit (MB or RM) allows the permittee to sell, offer for sale, and possess mixed beverages, including distilled spirits, for consumption on the licensed premises from sealed containers containing not less than one fluid ounce nor more than two fluid ounces or of any legal size; and from unsealed containers. The permittee may also purchase wine, beer, ale, and malt liquor containing alcohol of not more than 21 percent by volume in containers of any legal size from any permittee or licensee authorized to sell those beverages for resale; and sell the wine, beer, ale, and malt liquor for consumption on the licensed premises.

The Private Club Registration Permit (N), Private Club Registration Beer and Wine Permit (NB) and Private Club Exemption Certificate Permit (NE) are for members only, not the general public. An important distinction for these private club permits is that they do not allow for the "sale" of alcoholic beverages but rather allow the private club to charge a fee for the service, of alcoholic beverages for on-premise consumption only to the members of the private club or the member's guest. A more precise definition paraphrased from ABC, Sec. 32.01 consist of the following: A private club permit (N, NB, NE) authorizes alcoholic beverages belonging to members of the club to be stored, possessed, and mixed on the club premises; and served for on-premises consumption only to members of the club and their families and guests, by the drink or in sealed, unsealed, or broken containers of any legal size. An (NB) permit restricts the private club to serving only beer and wine. The (NE) permit is issued only to fraternal organization.

Auxiliary permits may be issued or appended to the above five basic gross receipts permits granting additional privileges. The common auxiliary or secondary permits are:

(LB) Mixed beverage late hours permit. This permit allows an (MB) or (RM) permittee to operate past the normal closing time and generally until 2:00 am. Alcoholic Beverage Code, Chapter 105 provides municipalities and county commissioner's courts the ability to regulate the hours of sale and consumption.

(NL) Private club late hours permit. This permit allows a (N), (NB) and (NE) private club permittee to operate past the normal closing time and generally until 2:00 am. Alcoholic Beverage Code, Chapter 105 provides municipalities and county commissioner's courts the ability to regulate the hours of sale and consumption.

(CB) Caterer's permit. This permit allows a (MB) or (RM) permit to sell mixed beverages on a temporary basis at a place other than the permittee's primary licensed premises. This type permit has material audit implications and is discussed further in this manual.

(PE) Beverage Cartage Permit. This permit allows a (MB), (RM), (N), (NB) and (NE) private club permittee to transfer beverages from the place of purchase to the licensed premises.

(MI) Minibar Permit. This permit allows a hotel with a mixed beverage permit to sell certain alcoholic beverages from minibars located in individual hotel rooms. This permit is discussed in further detail in other sections of this manual.

(FB) Food and Beverage Certificate. This certificate may be issued in conjunction with a (MB) or (RM) permit if alcoholic beverage sales or service is less than 50% of the total gross receipts from the licensed premise. Holding this auxiliary certificate grants the permittee certain special privileges and waives certain restrictions relating to the licensing and permitting by the TABC.

Authorized Suppliers/Vendors:

TABC permittees subjected to the mixed beverage gross receipts tax (MBGRT) may only purchase alcoholic beverages from suppliers/vendors holding specific wholesalers permits, distributor licenses and/or package stores with auxiliary local distributor permits. These relationships and related supplier/vendor permits and licenses are noted below:

Beverage Class	MBGRT Permittee	Supplier/Vendor Permit or License Type
Distilled Spirits	MB, RM, N, NE	(P) Package Store holding an auxiliary (LP) Local Distributors Permit
Wine	MB, RM, N, NB, NE	(P) Package Store holding an auxiliary (LP) Local Distributors Permit
Wine	MB, RM	(W) Wholesaler's Permit
Wine	MB, RM	(X) General Class B Wholesaler's Permit
Wine	MB, RM	(LX) Local Class B Wholesaler's Permit
Wine	MB, RM	(G) Winery
Beer	MB, RM, N, NB, NE	(P) Package Store also holding a (BF) Retail Dealer's Off-Premise License
Beer	MB, RM, N, NB, NE	(BC) Branch Distributor's License
Beer	MB, RM, N, NB, NE	(BB) General Distributor's License
Beer	MB, RM, N, NB, NE	(BD) Local Distributor's License
Beer	MB, RM, N, NB, NE	(BA) Manufacturer's License (if producing less than 75,000 barrels of malt beverages in conjunction with a Brewer's permit)
Malt Liquor	MB, RM, N, NB, NE	(P) Package Store holding an auxiliary (LP) Local Distributors Permit
Malt Liquor	MB, RM, N, NB, NE	(W) Wholesaler's Permit
Malt Liquor	MB, RM, N, NB, NE	(X) General Class B Wholesaler's Permit
Malt Liquor	MB, RM, N, NB, NE	(LX) Local Class B Wholesaler's Permit
Malt Liquor	MB, RM, N, NB, NE	(B) Brewer's Permit (if producing less than 75,000 barrels of malt beverages in conjunction with a Manufacturer's license)

Purchases of any alcoholic beverage from an unauthorized source are illegal. Such purchases discovered during an audit should be included on the alcoholic beverage depletion analysis, footnoted on the purchase's exam as an illicit purchase, and discussed in the audit plan. Auditors should also forward this information to audit headquarters so it may be submitted to TABC for further investigation.